

ANNO SEPTIMO & OCTAVO.

GEORGII IV. REGIS.

CAP. LXIX.

An Act to provide for the Relief of Persons aggrieved by unlawful or excessive Distresses in *Ireland*. [2d *July* 1827.]

WHEREAS the Expence of suing out and trying Replevins in *Ireland* is far beyond the Means of Persons usually occupying small Tenements or Farms, and such Persons may therefore frequently be subject to Injustice and Oppression; be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act, in all Cases where any Distress shall be made in *Ireland* for any Rent, Proportion of Rent, or Arrears of Rent, where the annual Amount of such Rent shall not exceed the Sum of Ten Pounds, it shall and may be lawful for any One or more Justice or Justices of the Peace in *Ireland*, within his or their Jurisdiction or Districts within which the Distress shall have been made, or the Cattle, Goods, or Chattels shall have been distrained or impounded, or for any Two or more Justices assembled at any Petty Session or reputed Sessions within such Districts, to take cognizance of and to examine into any Complaint which shall be made against any Person impounding any Cattle or distraining any Goods or Chattels for such Rent, or any Arrears thereof, setting forth that when such Distress was taken, that there was either no Rent due, or that there was less

Where a Distress is made for Rent not exceeding 10*l.* on Complaint to Justices that it is unlawful, they may issue Summons to Party complained against, to show Cause why Replevin should not be made.

less Rent due than was claimed by the Person on whose Behalf such Distress was made, and if upon such Examination such Justice or Justices shall be of Opinion that such Complaint is well founded, it shall be lawful for such Justice or Justices to issue his or their Summons, requiring the Party complained against to attend and appear at the next or any subsequent Petty Session to be held in and for such District, at such Time and in such Place within such District as shall for that Purpose be named in such Summons, there to show Cause before the Justices of Peace there assembled, why Replevin and Deliverance of such Distress should not be made to such Complainant by virtue of this Act, and according to the Regulations herein contained.

Justices at Petty Sessions may grant Order for Replevin, to be returnable to the next Quarter Sessions.

II. And be it further enacted, That it shall be lawful for the Justices of the Peace (Two at least being present) at any such Petty Sessions at which the Party complained against shall be so summoned to attend and appear, and such Justices are hereby authorized and required (the Service of such Summons having been first satisfactorily proved, and whether the Party complained against shall or shall not attend and appear) to hear such Complaint, and to examine into the Truth of the same, and to inquire into and ascertain the Amount of the Rent or Arrears of Rent actually due, upon the Oath of the Complainant, or any other Person or Persons; and if it shall be made appear to such Justices that either no Rent was due, or that such Distress was taken for a larger Sum than was actually due, it shall and may be lawful for such Justices, and they are hereby required to order the Replevin and Deliverance shall be made of the Cattle, Goods, or Chattels so distrained, to the Person or Persons so complaining, by the Poundkeeper or other Person in whose Custody the Cattle, Goods, or Chattels so distrained shall be; and such Order or Replevin and Deliverance shall be returnable to the Justices at the next General Quarter Sessions to be holden for the County, Division, City, Town, or Place within which such Distress shall have been taken or made, or such Cattle, Goods, or Chattels shall have been impounded, to be then and there tried and disposed of in manner herein-after directed; and such Order of Replevin and Deliverance shall be in the Form or to the Effect hereafter specified and set forth.

Justices may adjudge the Payment of a smaller Sum.

III. Provided always, and be it enacted, That it shall and may be lawful for such Justices at such Petty Sessions, upon the Hearing of such Case, to adjudge the Payment of any Sum which they may think justly due; and if Payment of such Sum shall not be made accordingly, or shall not be received by the Party on whose Behalf such Distress shall have been made, it shall and may be lawful for such Justices at such Petty Sessions either to grant or to refuse to grant such Order of Replevin or Deliverance, according as they shall think just and fit.

Justices shall not make Order for Replevin until Recogni-

IV. Provided always, and be it enacted, That it shall not be lawful for the Justices at any such Petty Sessions to make any such Order for Replevin and Deliverance of any such Distress, unless nor until the Party complaining shall at such Petty Sessions have entered into

Recognizance in Double the Amount of the Rent or Arrears of Rent which may appear to such Justices to be due, with Two sufficient Sureties, conditioned to abide the Decision upon such Case, at the next ensuing Quarter Sessions. zances and Sureties are given.

And be it further enacted, That every Recognizance to be taken before such Justices of the Peace, before making any Order for the Replevin and Deliverance of any Cattle, Goods, or Chattels distrained, and every Order for Replevin and Deliverance of such Cattle, Goods, or Chattels which shall be made by such Justices at Petty Sessions, shall be in the Form or to the Effect following respectively; (that is to say), Form of Recognizance, and Order of Replevin.

Form of Recognizance.

KNOW all Men by these Presents, That we *A. B.* Principal, and *C. D.* of and *E. F.* of Sureties, do hereby acknowledge ourselves to be held and firmly bound to [*G. H. the Person or Persons making the Distress*], his [*or* her] Heirs, Executors, or Administrators, in the Sum of [*being Double the Sum ascertained by the Justices at Petty Sessions to be due*], for the true Payment of which we do hereby bind ourselves and each of us, and our and each of our Heirs, Executors, and Administrators. Sealed with our Seals, and dated this Day of

The Condition of the above Recognizance is, That if the said *A. B.* shall appear at the next General Quarter Sessions to be held at [*name the Place*], and shall then and there abide any Suit to be brought against him by or on behalf of [*I. K. the Person by whom or on whose Behalf the Rent is claimed*], for the Sum of [*specify the Sum*], claimed as Rent or Arrears of Rent due to the said *I. K.*, and if the said *A. B.* shall well and truly satisfy and pay such Sum of Money and Costs, as shall at such Quarter Sessions be decreed or awarded to be due from the said *A. B.* to the said *I. K.*, then this Recognizance shall be null and void, otherwise to remain in full Force and Effect in Law.

Taken before us, *L. M.* } Justices of *N. O.* } Peace.

A. B. (Seal) Principal.
C. D. (Seal) }
E. F. (Seal) } Sureties.

Form of Order for Replevin and Deliverance.

WE, the undersigned *L. M.* of and *N. O.* of Justices of the Peace, at a Petty Sessions [*or* reputed Petty Sessions] held this Day at having duly and carefully examined into the Complaint of *A. B.* [*the Person whose Goods have been distrained for Rent*], and being of Opinion that at the Time such Distress was made, that the Sum claimed as Rent or Arrears of Rent from the said *A. B.* was not justly due; and the said *A. B.* having entered into Recognizance with Two sufficient Sureties in Double the Amount which appears to us to be justly due, conditioned to abide the Trial or Suit to be instituted in such Case at the next General Quarter Sessions to be held at and fully to satisfy and pay whatever Sum and Costs

Costs shall be awarded and decreed to [*I. K. the Person by whom or on whose Behalf the Rent is claimed*]; We do hereby order and decree, That Replevin and Deliverance shall be made by you, the undernamed Poundkeeper, or Keeper of the Cattle [*or* Goods or Chattels] so distrained, to the said *E. F.* of the said Cattle [*or* Goods and Chattels] so distrained; that is to say, [*here specify the Cattle or Goods or Chattels so distrained*]; and for your so doing, this shall be your sufficient Authority. Given under our Hands and Seals, this Day of

L. M. } Justices.
N. O. }

'To *P. Q.* Poundkeeper, or other Keeper of the Cattle or Goods or Chattels distrained.'

Poundkeeper served with a Copy of Order signed by Justice or the Clerk of Petty Sessions, shall deliver up the Distress.

VI. And be it further enacted, That it shall be lawful for the Poundkeeper or other Keeper of any Cattle, Goods, or Chattels so distrained, in whose Custody such Cattle, Goods, or Chattels shall be, such Poundkeeper or other Person being served with a Copy of such Order for Replevin and Deliverance as aforesaid, certified by the Signature of One of the Justices under whose Authority such Order shall be made, or by the Clerk of the Petty Sessions, and every such Poundkeeper or other Person as aforesaid is hereby authorized, empowered, and required, to deliver up the Cattle, Goods, or Chattels specified in such Order, to the Person or Persons from whom they shall have been distrained as aforesaid.

Penalty for not delivering Cattle, Goods, or Chattels.

VII. And be it further enacted, That any and every Poundkeeper or other Person as aforesaid so served with such Copy of such Order certified as aforesaid, who after Tender made to him of his lawful Fees shall neglect or refuse to deliver up such Cattle, Goods, or Chattels, to the Person or Persons from whom they shall have been distrained as aforesaid, shall forfeit and pay a Sum not exceeding the Sum of Ten Shillings for every Twenty-four Hours during which such Poundkeeper or other Person shall detain such Cattle, Goods, or Chattels in his Custody, after he shall have received such Copy of such Order of Replevin as aforesaid; and it shall be lawful for the Magistrates by whom such Order was made at the Petty Sessions aforesaid to issue their Warrant to levy such Penalty, and to pay the same to the Person aggrieved by the Detention of such Cattle, Goods, or Chattels as aforesaid.

Justices shall lodge original Recognizances with Clerk of the Peace Three Days before the Quarter Sessions.

VIII. And be it further enacted, That the Justices of the Peace making any such Order as aforesaid shall lodge and deliver, or cause or direct to be lodged and delivered, any and every original Recognizance, and any and every original Order for Replevin and Deliverance, which shall be taken before and shall be made by such Justices in the Execution of this Act, to the Clerk of the Peace or acting Clerk of the Peace for the County, District, City, Town, or Place where such Quarter Sessions shall be holden, Three Days (if practicable) previous to the First Day of such Quarter Sessions, or the Adjournment thereof, next after the making of any and every such Order respectively, but so that there shall be at least Two clear Days between the Delivery of every such Recognizance and Order to the Clerk of the Peace and the First Day of such Quarter Sessions or Adjournment;

and

and such Clerk of the Peace shall keep and dispose of all such Recognizances and Orders under the Direction and Regulation of the Assistant Barrister there presiding for the Furtherance of Justice.

Validity of such Orders of Replevin shall be tried by Assistant Barrister, at Sessions, as Cases of Replevin.

IX. And be it further enacted, That the Validity and Effect of all such Orders of Replevin and Deliverance of Distress as shall be made pursuant to the Directions of this Act shall be tried and determined by and before the Assistant Barrister, or acting Assistant Barrister, or Chairman presiding at such Quarter Sessions, and he is hereby authorized and required to examine into and ascertain the Question whether any how and much Rent was due (at the Time of such Distress having been made), in a summary Manner, in the Nature of a Civil Bill, upon the Application of either of the Parties concerned, whether the other Party shall attend or not; and on such Trial, the Party on whose Behalf any such Order of Replevin shall have been made shall be taken and considered in the Nature of a Plaintiff in Replevin, and the Party on whose Behalf such Distress was made shall be taken and considered in the Nature of a Defendant or Avowant in Replevin; and such Assistant Barrister or Chairman shall have such Jurisdiction, and such Power of summoning Witnesses, and of compelling their Attendance, as are or may by Law be given to or vested in such Assistant Barrister or Chairman in and for the Trial of Actions by Civil Bill, or of Ejectments, under any Act or Acts in force in *Ireland*; any Law, Usage, or Custom to the contrary in anywise notwithstanding.

Assistant Barrister may give Judgment and Decree for Rent due and Costs.

X. And be it further enacted, That it shall be lawful for such Assistant Barrister or Chairman, and he is hereby authorized, empowered, and required, upon any Trial or Determination in respect of any such Order for Replevin and Deliverance, to make, sign, and give a Judgment and Decree against the Goods and Persons of the Principal and Sureties, or any of them, in any such Recognizance, for any such Rent or Sum as such Assistant Barrister or Chairman shall adjudge to be due to the Person or Persons on whose Behalf such Distress shall have been made, at the Time when such Distress was made, whether such Rent or Arrears shall or shall not exceed the Sum of Ten Pounds, with reasonable Costs of Suit, to be paid to such Person or Persons; and if it shall appear to such Assistant Barrister or Chairman, upon such Trial and Examination as aforesaid, that no Rent or Arrears of Rent were due at the Time of such Distress, or that no more Rent was due than was ascertained by the Magistrates upon the Hearing of the Complaint at the Petty Sessions aforesaid, it shall and may be lawful for such Assistant Barrister or Chairman, and he is hereby authorized and required, to sign a Decree of Dismiss against the Party on whose Behalf such Distress was made, with reasonable Costs of Suit, to be levied on his Person or Goods, and to be paid to the Person who obtained such Order of Replevin and Deliverance, in manner herein-before directed by this Act.

Appeal from Decree of Assistant Barrister.

XI. And be it further enacted, That in case either of the Persons so being in the Nature of Plaintiff or Defendant or Avowant in Replevin, as aforesaid, shall think himself or themselves aggrieved by

by the Judgment, Decision, or Decree of any Assistant Barrister or Chairman of the Sessions, it shall and may be lawful for any such Party to appeal to the next going Judge of Assize for the County, City, or Town within or for which such Quarter Sessions shall be held, or, within the County of *Dublin*, to the Chief Justice of the Court of King's Bench or Common Pleas, or to the Chief Baron of the Exchequer, or other Judge of Nisi Prius for the City of *Dublin*, in like Manner as Appeals may by Law be made in Civil Bill Cases; and it shall be lawful for such Judge of Assize, and he is hereby authorized, empowered, and required, to try and determine the Matter of such Appeal, and the Decision of such Judge shall be final and conclusive in the particular Case upon all Parties.

On such Appeal the Appellant shall give Security.

XII. Provided always, and be it enacted, That it shall not be lawful to appeal from any such Decision, Judgment, or Decree of any such Assistant Barrister or Chairman as aforesaid, unless the Party intending to appeal shall give Security forthwith, or within Twenty-four Hours next after such Decision, Judgment, or Decree shall be given, to the Satisfaction of the Assistant Barrister or Chairman whose Decision or Decree shall be sought to be contravened, duly to prosecute such Appeal, and to bring the Matter at Issue to a final Hearing before the next going Judge of Assize or other Judge as aforesaid.

No Proceedings under this Act in case of Ejectment previous to Complaint.

XIII. Provided also, and be it enacted, That it shall not be lawful for any Person to proceed under the Authority of this Act in any Case where an Ejectment shall have been brought for the Nonpayment of the Rent distrained for, previous to Complaint having been made under this Act to the Magistrates at their Petty Sessions as aforesaid; any thing herein-before contained to the contrary in anywise notwithstanding.

Act shall not extend to Crown Rents, &c.

XIV. Provided also, and be it enacted, That nothing in this Act contained shall extend or be construed to extend to any Distress made for any Crown Rent, Quit Rent, Composition Rent, Chief Rent, or Fee Farm Rent whatever, nor to any Distress for any Rent payable under any Lease, Demise, or Contract for ever, or for Lives renewable for ever, or for Nine hundred and ninety-nine Years.

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