

ANNO PRIMO & SECUNDO

VICTORIÆ REGINÆ.

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CAP. XCIX.

An Act for the more effectual levying of Fines, Penalties, Issues, Deodands, and Amerciaments, and of forfeited Recognizances estreated, in *Ireland*; and for the Application and Distribution thereof. [14th *August* 1838.]

WHEREAS it is expedient to make better Provision for levying all Fines, Issues, Deodands, Amerciaments, and forfeited Recognizances in *Ireland*; and that the same should be applied and distributed in the Manner herein-after provided: Be it enacted by the Queen'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 when and as often as any Fine, Penalty on summary Conviction or otherwise, Deodand or Amerciament, shall hereafter be imposed on any Person or Persons whatsoever, by any Court in *Ireland*, or by any Coroner or other public Officer in any way empowered by Law to impose the same, and as often as any Recognizance shall be forfeited and ordered to be estreated, or any Issues be directed to be levied in or by any such Court or Authority, an Entry shall be forthwith made by the Clerk of the Crown, Clerk of the Peace, Town Clerk, or other Officer of such Court, or the Person whose Duty it is to attend and make Entries of the Proceedings thereof, or if there be no such Officer then by the Person imposing such Fine, Deodand, or Amerciament, or ordering any such Recognizance to be estreated or such Sum to be levied, in a Book to be kept for that Purpose, that such Fine, Penalty, Deodand, or Amerciament, stating the

Entries of all Fines, &c. shall be made by the Officers of the Courts in a Book to be kept for that Purpose.

the Amount thereof, was imposed on such Person or Persons, stating the Name, Residence, and Description of such Person or Persons, or that such Recognizance, stating the Amount thereof, and the Name, Residence, and Description of the Person or Persons bound thereby, was estreated, or that such Issues, stating the Amount thereof, and the Name, Residence, and Description of the Person or Persons by whom same are payable, were directed to be levied, as the Case may be; and every such Entry shall state what Part of such Sum, if any, is payable to any public Institution, Corporation, or Municipal Bodies or Borough Fund, or to any Informer or Informers, Party or Parties grieved, or other Person, as Part of the Penalty, or for Costs or otherwise, and to whom the same is so payable.

Accounts of Fines, &c. to be transmitted to Sub-Inspectors of Police, &c. directing them to levy the same.

II. And be it enacted, That every such Officer or Person as aforesaid shall, within Fourteen Days after each such Fine, Penalty, Deodand, or Amerciament shall be imposed, or Recognizance be ordered to be estreated, or Issues be directed to be levied, transmit to the Sub-Inspector or One of the Sub-Inspectors of the Constabulary Force appointed under the said Act passed in the Sixth Year of the Reign of His late Majesty King *William* the Fourth, intituled, *An Act to consolidate the Laws relating to the Constabulary Force in* Ireland, and acting for the County, County of a City, or Town, or Towns and Liberties, in which such Fines, Penalties, Deodands, or Amerciaments shall respectively be imposed, or Recognizances estreated, or Issues to be leviable, or, in any Case arising within the Police District of *Dublin* Metropolis, and to which this Act is applicable, to One of the Justices of the Peace for and of the said Police District of *Dublin* Metropolis appointed under the said Act passed in the Sixth Year of His late Majesty King *William* the Fourth, intituled *An Act for improving the Police in the District of* Dublin *Metropolis*, a true and correct List, signed by him, of all such Fines, Penalties, Deodands, or Amerciaments, Issues, and Recognizances as shall be imposed or be directed to be estreated or levied in or by the Court in which he shall act as such Officer, or by such Person, stating the Amount thereof respectively, and the Name, Description, and Residence of the Person or Persons respectively liable to the Payment thereof, commanding them respectively forthwith to levy on the Body or Goods of the Person or Persons against whom such Warrants respectively shall issue, as is usual in the Recovery of forfeited Recognizances, the respective Sums for which such Recognizances shall be respectively ordered to be estreated, or the respective Amounts of such Fines, Penalties, Deodands, Amerciaments, or Issues respectively imposed or to be levied on such Person or Persons, or the Amount thereof then remaining unpaid, as the Case may be; and such Sub-Inspector or Justice of the Peace, and all Chief or other Constables or Sub-Constables, or Policeman, whom the said Sub-Inspector or Justice may empower or direct so to do by Indorsement on said Warrant, with his and their Assistants, are hereby required and authorized to execute the same accordingly, in the Manner and with all the Powers now authorized and given by Law for levying forfeited Recognizances.

6 & 7. W. 4. c. 13.

6 & 7 W. 4. c. 29.

When Imprisonment is directed

III. Provided always, and be it enacted, That in case it shall have been directed or adjudged at the Time of the Imposition of such Fine,

Fine, Penalty, or Amerciament as aforesaid, or it shall have been provided by any Act or Acts under which such Fine, Penalty, or Amerciament shall have been imposed, that the Person or Persons liable thereto, or on whom same shall have been imposed as aforesaid, shall, in default of Payment thereof, be imprisoned for a Period of Time fixed at the Time of such Imposition, or by such Act or Acts as aforesaid, then and in every such Case such Warrants shall respectively command such Sub-Inspectors respectively, or such Justice, in default of the Payment of such Fine, Penalty, or Amerciament, to take the Body of the Persons liable thereto, or on whom same shall be imposed, and to commit him or her to the Common Gaol or House of Correction, there to remain, and, if so adjudged, to be kept to hard Labour until the Expiration of the Time fixed for such Imprisonment as aforesaid, and such Warrant may be executed accordingly in the Manner and by the Person aforesaid.

in default of Payment, the Warrant shall direct accordingly.

IV. Provided always, and be it enacted, That if any Appeal shall have been duly made, pursuant to Law in that Behalf, from the Decision, Rule, Order, or other Proceeding imposing any such Fines, Penalties, Deodands, or Amerciaments, or estreating such Recognizances, or directing such Issues to be levied, or any Proceeding shall have been taken by due Course of Law to quash or annul such Decision, Rule, or Order, or other Proceeding, it shall and may be lawful for such Officers or Persons as aforesaid and they are hereby respectively required to suspend the issuing of such Warrants until such Appeal or other Proceeding shall be finally decided: Provided always, that in any Case in which any Justice or Justices of the Peace is or are now by Law authorized to issue his or their Warrant for the Levy of any Penalty, or the Committal of any Person, immediately, or on Conviction had before him or them, or within any Period less than the said Period of Fourteen Days, every such Justice or Justices may issue such Warrant accordingly to such Sub-Inspector or Justice, or to any Chief Constable, if it shall seem expedient to him or them so to do, but subject, as to the Distribution of and accounting for all Sums levied thereunder, to all the Provisions of this Act.

If Appeal duly made, Warrant not to be issued till after the Decision of the Appeal.

Proviso for Cases where Justices may issue their Warrant immediately.

V. And be it enacted, That if any such Clerk of the Crown, Clerk of the Peace, Town Clerk, or other such Officer or Person as aforesaid, shall neglect to make such Entry in such Book as aforesaid, or shall make any untrue Entry therein, or if any such Officer or Person shall neglect to transmit to such Sub-Inspector or Justice of the Peace as aforesaid such Lists or such Warrants as aforesaid, or to transmit to the Chief Remembrancer of Her Majesty's Court of Exchequer in *Ireland* such Accounts as herein-after directed, such Officer shall, in addition to any other Penalty or Punishment to which he may in Law be liable, forfeit for each such Neglect or Misconduct, from Time to Time and as often as the same shall be committed by him, on Proof thereof, by Confession or otherwise, before any Justice of the Peace for the County, County of a City, or County of a Town in which he shall act as such Officer or otherwise, or in which the Court to which he belongs shall be situate, on a Summons to be issued for that Purpose at any Petty Sessions Court, any Sum not exceeding Ten Pounds, and such further Sum for Costs as such Justices may think

Penalty on Officer for Neglect.

think fit, not exceeding Five Shillings, to belevied in the Manner provided by this Act for the Levy of Fines and forfeited Recognizances, said Penalty to be paid when levied with the other Monies levied under this Act as is herein-after directed.

Sub-Inspectors to report quarterly.

VI. And be it enacted, That every such Sub-Inspector of Police respectively and such Justice of the Peace as aforesaid shall and they are hereby respectively required, on the First of *January*, First of *April*, First of *July*, and First of *October* in each and every Year, to return to the respective Officers or Persons issuing the same what they shall have respectively done in execution of such Warrants; and the said Officers and Persons are hereby respectively authorized and required to issue from Time to Time to such Sub-Inspectors or to such Justice of the Peace such Warrants as aforesaid, or Renewals thereof, until the full Amount of the Sums thereby directed to be levied shall be fully paid or otherwise discharged by due Course of Law.

Warrants to levy may be issued from Time to Time till the Levy be made.

On Removal of Sub-Inspector or Justice his Successor shall execute Warrants, &c.

VII. And be it enacted, That in case any Sub-Inspector or Justice of the Peace to whom such Warrant or Warrants shall be directed as aforesaid shall be removed by Death or otherwise from his Office as such Sub-Inspector, or Justice, it shall and may be lawful for the Person who shall be appointed Sub-Inspector, or Justice of the Peace in his Stead and such Person is hereby authorized and required to execute all such Warrant or Warrants then remaining unexecuted by the Person so deceased or removed, and to do all such other Matters and Things as are herein-before directed with respect thereto as if such Warrant or Warrants had been originally directed to such Person.

Application for Reduction or Remission of Fine.

VIII. Provided always, and be it enacted, That it shall be lawful for any Person or Persons against whom such Warrant or Warrants shall be issued to apply for the Reduction or Remission of the Sum thereby directed to be levied in the Manner herein-after directed, such Person or Persons first giving before any Magistrate attending at the Petty Sessions of the District in which such Person or Persons shall reside, or if in *Dublin* before any Divisional Magistrate of Police, Security by Recognizance, at the Expence of such Person or Persons, with Two sufficient Sureties, in double the Amount of such Sum, and lodging with such Sub-Inspector or Justice of the Peace, or the Chief Constable of the said District, a Notice that such Person or Persons will apply for such Reduction or Remission as herein-after directed, and thereupon the Execution of such Warrant shall be suspended, and it shall be lawful for such Person to apply by Petition to the Court of Assize which shall be held next after such Warrant shall be issued, if such Fine, Penalty, Issues, or forfeited Recognizances was or were directed to be levied at a Court of Assize, or to One of Her Majesty's Superior Courts at *Dublin* if imposed or directed by a Superior Court, or in case such Fine, Penalty, Deodand, Issues, or forfeited Recognizances was or were directed to be levied at any other Court, or by any Coroner or other such Person as aforesaid, then to the Court of Quarter Sessions which shall be held next after such Security shall be given in the County, County of the City or Town in which the same shall have so issued, for the Reduction or

Remission thereof; and the Judges of said Superior Court, Judge of Assize, or Assistant Barrister at said Court or Court of Sessions, as the Case may be, shall and is hereby authorized and empowered to hear the Matter of said Petition, and to examine into the Merits thereof, and to make such Order therein for reducing or wholly remitting such Fine, Penalties, Deodand, Issues, or forfeited Recognizances, as to him or them may seem fit, or for confirming the same; and the Clerk of the Rules of such Court, Clerk of the Peace or Clerk of the Crown, as the Case may be, shall thereupon forthwith make out and deliver a Copy of such Order to the Sub-Inspector or such Justice of the Peace to whom such Warrant may have been directed, who shall proceed accordingly in the Execution of such Warrant or Warrants, or refrain from the Execution thereof, as he shall be directed: Provided always, that nothing herein contained shall entitle any Person to such Right to appeal in any Case of summary Conviction where no Appeal is given by the Law under which the Fine or Penalty is inflicted, or to any Case where the Fine or Penalty is imposed or levied by the Authority of any Court of Petty Sessions.

In case the Party remove out of the Jurisdiction, Warrants to be issued to the Sub-Inspector where he resides.

IX. And be it enacted, That in all Cases when the Person or Persons against whom any Warrant or Warrants shall issue under this Act shall reside or have fled or removed from out of the Jurisdiction of the Sub-Inspectors of Police, or of such Justice of the Peace as aforesaid, to whom such Warrant or Warrants shall be issued and directed, it shall be lawful for such Sub-Inspector or such Justice of the Peace, and he is hereby authorized and required to issue his Warrant under his Hand and Seal to the Sub-Inspector of Police for the County in which such Person or Persons shall then reside or be in, or to any such Justices of the Peace, if in the Police District of *Dublin* Metropolis as aforesaid, in which any Goods or Chattels or other Property of such Person or Persons shall be found, requiring such Sub-Inspector of Police or Justice of the Peace, as the Case may be, forthwith to execute same; and the said last-mentioned Sub-Inspector or Justice is hereby required, within Three Months after the Receipt of such Warrant, to return to the Sub-Inspector or Justice from whom he shall have received the same what he shall have done in the Execution of such Warrant, and in case a Levy shall have been made to pay over all Monies received in pursuance of the Warrant to the Sub-Inspector or Justice from whom he shall have received the same, who shall be accountable for the same as if directly levied by himself.

Chief Constable to lodge the Amount of Warrants in the Bank of Ireland.

X. And be it enacted, That the said respective Chief Constables of Police or the said Justice shall and they are hereby required respectively forthwith to lodge the Amount of every such Warrant received by him in the Bank of *Ireland*, or in some Branch Bank thereof, to the Credit of the Paymaster of Civil Services in *Ireland*, in an Account to be entitled in the Matter of this Act; and the said Paymaster shall, from Time to Time, draw on the said Bank of *Ireland* for such Part or Parts of the said Sums so lodged as are appropriated to any special Purpose by any Act or Acts now in force or under this Act in favour of the Party, public Institution, or Fund entitled thereto, taking a Receipt for the same in Writing, which shall not be subject to any Stamp Duty; and the said Paymaster shall keep an Account of all Sums paid under this Act.

XI. And

Officers of Courts shall transmit Accounts to Chief Remembrancer.

XI. And be it enacted, That the respective Officers for the Time being of the respective Courts aforesaid, and the other Persons bound to keep such Accounts of Fines and Penalties as aforesaid, and the said respective Chief Constables or the said Justice who shall have been empowered to levy any Sums of Money, and the said Paymaster of Civil Services, shall, on the first *Monday* in the Months of *January*, *April*, *July*, and *November* in each Year, make out and transmit to the Chief Remembrancer of Her Majesty's Court of Exchequer in *Ireland*, in such Form and verified as he shall direct or require, a just and true Account of all Fines, Penalties, Deodands, or Amerciaments, Recognizances or Issues imposed, estreated, or directed to be levied in their respective Courts or by them respectively, and of all Sums of Money levied, paid, or applied, and of all Sums then remaining in said Bank to the Credit of the Account aforesaid.

Chief Remembrancer shall audit Accounts.

XII. And be it enacted, That the said Chief Remembrancer shall, once in each Year at least, examine, audit, and certify the said Accounts, and shall have all such Power, Authority, and Jurisdiction with respect to the said Accounts, and to the Examination of all Persons with respect to any Matters relating thereto, and to the Payment of any Balances as are now vested in the said Chief Remembrancer with respect to any Accounts whatsoever.

Power to Chief Remembrancer to issue Warrants, &c.

XIII. And be it enacted, That it shall and may be lawful for the said Chief Remembrancer, and he is hereby authorized and empowered, from Time to Time to issue a Warrant or Warrants under his Hand and Seal to all such Sub-Inspectors of Police, or to such Justice of the Peace as aforesaid, commanding them severally and respectively to levy, in the Manner herein-before directed with respect to the Warrants herein-before mentioned, all such Fines, Issues, Amerciaments, Penalties, Forfeitures, Recognizances, and Deodands payable to Her Majesty, Her Heirs and Successors, as the said Chief Remembrancer is now empowered to levy and enforce by any Process whatsoever, and also all such Balances as shall appear to be due on foot of any Account or Accounts which shall be submitted to such Chief Remembrancer under and by virtue of this Act; and such Sub-Inspectors respectively and such Justice of the Peace are hereby required, within Three Months after the Receipt of such Warrant or Warrants, to return to such Chief Remembrancer what they shall have respectively done in execution thereof; and said Chief Remembrancer is hereby authorized and empowered to issue from Time to Time to such Sub-Inspectors or to such Justice of the Peace such Warrants as aforesaid, or Renewals thereof, until the full Amount of the Sums thereby directed to be levied shall be fully paid or otherwise discharged by due Course of Law; and all such Sum or Sums as shall be paid to or levied by any such Sub-Inspector or Justice of the Peace as aforesaid on account of any such Balance as aforesaid shall be forthwith paid into the said Bank of *Ireland*, to the Credit of the said Fines and Penalties Fund Account; and no Process shall issue after the passing of this Act to any Sheriff to levy any of the said Sums or any Sum authorized to be levied under the Provisions of this Act.

If Accounts not kept and transmitted, Penalty 10*l*.

XIV. And be it enacted, That if such Sub-Inspector or Paymaster of the Constabulary Force or such Justice of the Peace for the

District of *Dublin* Metropolis as aforesaid shall neglect to perform any of the Duties hereby imposed upon him, he shall for every such Neglect forfeit and incur such Penalty, not exceeding Ten Pounds, as the Chief Remembrancer shall direct; and the Amount of such Penalty shall and may be deducted from and out of any Salary accruing due to such Offender upon Certificate thereof by such Chief Remembrancer to the Receiver of the said Constabulary Force, and to be paid into the said Account in the Bank of *Ireland*, to the Credit of the Paymaster of Civil Services: Provided always, that it shall be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland* to mitigate and remit any such Penalty or any other Penalty imposed by this Act.

Distribution of Fund.

XV. And be it enacted, That it shall and may be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland* in Council, so long as the Hereditary Revenues of the Crown shall not be payable and paid to Her Majesty, Her Heirs and Successors, to direct from Time to Time that all or any Part of the Sums paid to the Bank of *Ireland* under the Provisions of this Act, and not already appropriated by any Act or Acts to any special Purpose, shall be paid to and distributed among the Infirmaries, Hospitals, Dispensaries, and other local Charities supported in the whole or in part by Grand Jury Presentment of the several Counties and Counties of Cities and Towns in *Ireland*, and to the Loan Fund Board established under an Act passed in the Sixth and Seventh Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act to amend the Laws relating to Loan Societies in* Ireland, and in reduction of the County Presentments for the Support of the Constabulary Force in *Ireland*, in such Proportions as the Lord Lieutenant or other Chief Governor or Governors of *Ireland* in Council shall from Time to Time direct, and to direct the Paymaster of Civil Services to pay the same, and the same shall be so paid and distributed accordingly: Provided always, that no such Distribution shall be made at any Time after Her Majesty's Heirs and Successors shall have resumed Possession of the Hereditary Revenues of the Crown.

6 & 7 W. 4. c. 55.

Costs not exceeding Twenty Shillings may be awarded in Cases of summary Convictions.

XVI. And be it enacted, That in all Cases of summary Convictions under any Act or Acts whatsoever it shall be lawful for the Justice or other Person before whom or by whose Authority any such summary Conviction shall be had to award Compensation for Costs and Expences to the Party or Parties concerned in the Prosecution, to such Amount as to such Justice or other Person shall seem reasonable; provided such Compensation shall not in any Case whatsoever, after the passing of this Act, exceed the Sum of Twenty Shillings; the same to be paid by the Party or Parties convicted, and to be levied as any other Sum awarded by such Conviction.

Recognizances for keeping the Peace to be transmitted to the Clerk of the Peace, &c.

XVII. Provided always, and be it enacted, That from and after the passing of this Act all Recognizances entered into by any Person or Persons before any Tribunal, Justice or Justices of the Peace, having Authority to receive and take the same, conditioned that such Person or Persons shall keep the Peace to Her Majesty's Subjects, or to any particular Person named therein, or to both, according to the Condition

Condition of such Recognizance, shall, within Fourteen Days after same shall be so acknowledged, taken, and entered into, be returned or transmitted to the Clerk of the Peace of the County, County of a City, or County of a Town wherein such Recognizance or Recognizances shall be so acknowledged and taken.

In case of a Breach of the Peace Recognizances to be forfeited.

XVIII. And be it enacted, That in case any Person or Persons who shall enter into such Recognizance or Recognizances as aforesaid shall commit any Breach of the Peace, or in any Manner violate the Condition of such Recognizance or Recognizances, that then and in such Case it shall be lawful for the several Assistant Barristers of the several Counties in *Ireland*, and also for the several Recorders of Cities in *Ireland*, upon Conviction of such Person or Persons for any Offence that shall be a Breach of the Condition of the said Recognizance, such Conviction to be proved by the Production of a Certificate thereof, signed and attested by the proper Officer in that Behalf, or on due Proof made before such Assistant Barrister or Recorder by Affidavit or otherwise, that the Person or Persons so bound by Recognizance had committed a Breach of the Peace, to order that such Recognizance and Recognizances shall be forfeited to such Amount as such Assistant Barristers or Recorder shall think fit, and to direct Warrants to levy the Amount of such forfeited Recognizances to be issued for the levying thereof, in like Manner as other Fines and Penalties are directed to be levied by this Act: Provided always, that Proof shall be first made on Oath before such Assistant Barrister or Recorder that Notice in Writing has been given to or left at the usual Place or Places of Abode of the Party, or each of the Parties if there be more than One, against whom it is sought to put such Recognizance in force, Six Days at the least before the Commencement of the Sessions at which such Application is made; and such Notice shall state in Substance the Cause or Matter on which it is intended to sustain the Application.

Chief Constable may sell by Auction without Licence, &c.

XIX. And be it enacted, That any Chief Constable empowered to levy any Sum of Money under this Act may and he is hereby authorized to sell by Auction any Distress and Distresses levied by him or by his Authority under the Provisions of this Act without procuring any Licence to act as an Auctioneer, and may deduct out of the Amount of such Sale all reasonable Costs and Charges actually incurred by him in effecting the same, to be approved by Two Magistrates at Petty Sessions.

Act may be amended this Session.

XX. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

Not to extend to England or Scotland.

XXI. And be it enacted, That nothing herein contained shall be construed to extend or apply to *England* or *Scotland*.

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