ANNO SECUNDO & TERTIO

VICTORIÆ REGINÆ.

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C A P. LXXVII.

An Act for the better Prevention and Punishment of Assaults in *Ireland* for Five Years.

[24th *August* 1839.]

WHEREAS the Use of Stones, and of loaded Sticks and loaded Whips, in the Commission of Assaults, has been productive of grievous Injury and sometimes Loss of Life in *Ireland*: And whereas by an Act passed in the Tenth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act* 10 G. 4. c. 34.
for consolidating and amending the Statutes in Ireland *relating to* § 36.
Offences against the Person, a summary Power of punishing Persons for Common Assaults is provided under the Limitations therein mentioned, and Jurisdiction is given, when any Person should unlawfully assault or beat any other Person, to Justices of the Peace, upon Complaint of the Party aggrieved, to hear and determine such Offence, and it is enacted, that the Offender, upon Conviction thereof before them, shall forfeit and pay such Fine as shall appear to them to be meet, not exceeding, together with Costs (if ordered), the Sum of Five Pounds; and in default of the Person so convicted paying such Fine as therein mentioned, Power is given by the said Act to such Justices to commit the Offender to the Common Gaol or House of Correction, there to be imprisoned for any Term not exceeding Two Calendar Months, unless such Fine and Costs be sooner paid: Be

it therefore 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 if upon hearing of any such Complaint it shall appear to the Justices, by Proof on Oath, that such unlawful Assault or Beating was committed by the Offender hitting or striking the Party aggrieved with a Stone or Brick Bat or heavy and dangerous Metal Weapon held in or swung by the Offender's Hand while the Blow was inflicted, or with a Stick or Whip loaded with Iron or any other Metal, or with any heavy Instrument so loaded, the Offender, upon Conviction thereof before such Justices, shall, in lieu of such Fine or Penalty so imposed by the said Act, forfeit and pay such Fine as shall appear meet to such Justices, not less than the Sum of Ten Shillings nor exceeding the Sum of Five Pounds, together with Costs (if ordered), such Fine and Costs to be paid and applied in like Manner as any Fine imposed by virtue of the said Provisions of the said Act may or ought to be paid or applied, unless otherwise ordered as herein-after mentioned; and if such Fine as shall be so awarded by the Justices, together with Costs (if ordered), shall not be paid either immediately after the Conviction, or within such Period as the said Justices shall at the Time of the Conviction appoint, it shall be lawful for them to commit the Offender to the Common Gaol or House of Correction, there to be imprisoned, with or without hard Labour, for any Term not exceeding Two Calendar Months, unless such Fine or Costs be sooner paid.

Penalty for Assault committed with a Stone or loaded Weapon.

If Penalty not paid the Offender to be committed.

II. Provided always, and be it enacted, That in case the Party injured by such Beating or Assault shall not himself be examined upon the Hearing of such Complaint, it shall be lawful for the Justices to award that the Amount of such Fine or Penalty, or any Part thereof, and such Costs as aforesaid, shall be paid to such Party so injured, and the same shall be so paid accordingly.

Penalty and Costs in certain Cases may be paid to the Party injured.

III. And be it enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Chief Governors of *Ireland* to extend the Royal Mercy to any Person imprisoned by virtue of this Act, although he shall be imprisoned for Nonpayment of Money to some Party other than the Crown.

Pardon for Nonpayment of Money.

IV. Provided always, and be it enacted, That in case the Justices, upon the Hearing of any such Complaint of Assault or Battery, shall deem the Offence not to be proved, or in case they shall find the Assault or Battery to have been justified, and in case they shall dismiss the Complaint accordingly, they shall forthwith make out a Certificate under their Hands, stating the Fact of such Dismissal, and shall deliver such Certificate to the Party against whom the Complaint was preferred; and the said Certificate shall be of the same Force and Effect as any Certificate given under the said recited Act: Provided also, that nothing herein or in the said recited Act contained shall empower the Justices to dismiss any such Complaint if the Offence shall be proved, and they shall not find the Assault or Battery to have been justified (although they might, under other Circumstances, deem the Offence, to be so trifling as not to merit any Punishment), where

Justices to dismiss and certify, in case they deem the Offence not proved, or the Assault justified; but not on the Ground that the Injury is trifling, if the Assault be committed with a Stone held in the Hand,

where Proof shall be given before them that the Assault or Beating was committed by the Offender so hitting or striking with a Stone or Brick Bat or heavy and dangerous Metal Weapon held in or swung by his Hand when the Blow was inflicted, or with a Whip or Stick or heavy Instrument so respectively loaded as aforesaid. or loaded Whip or Stick.

V. Provided always, and be it enacted, That in case the Justices before whom such Complaint and such Proof shall be made shall find the Assault to be such as in their Opinion to be a fit Subject for a Prosecution by Indictment, or if the Complainant or Prosecutor shall so require, they shall abstain from any Adjudication thereupon, and if the Charge be such and so substantiated as to warrant a Prosecution shall deal with the Case as one to be prosecuted at the Assizes or Quarter Sessions: Provided always, that nothing herein contained shall authorize any Justice of the Peace to hear and determine any Case of Assault or Battery in which any Question shall arise as to the Title to any Lands, Tenements, or Hereditaments, or any Interest therein or accruing thereupon, or as to any Bankruptcy or Insolvency, or any Execution under any Process of any Court of Justice. Justices, if they think fit, may deal with the Case as one to be prosecuted at the Assizes or Quarter Sessions. Summary Jurisdiction not to be exercised in certain Cases.

VI. And be it enacted, That if any Person shall unlawfully assault and beat or wound any Person with a Stone or Brick Bat, or any heavy and dangerous Missile, (whether held in or swung by the Hand while the Blow is inflicted, or flung at such Person,) or with a Stick or Whip loaded with Iron or any other Metal, or with any heavy Instrument so loaded, and shall be convicted thereof on any Indictment, in any such Case the Court, in sentencing the Offender being convicted thereof to be imprisoned, may order that he be kept to hard Labour, and require him to find Sureties to keep the Peace. Court may sentence to Imprisonment and hard Labour, and require Prisoner to find Sureties to keep the Peace.

VII. And be it enacted, That, save as hereby otherwise provided, all the Powers and Authorities given by and the Provisions contained in the said Act with respect to such summary Conviction, and to the Form thereof, and the Nonremoval thereof by Certiorari or otherwise, and the Time within which any such Complaint shall be brought, and every other Provision of the said Act relating to Proceedings under the said summary Jurisdiction for Common Assaults, shall apply to every Proceeding instituted, and every Penalty imposed, and every Conviction and Certificate had or made, under or by virtue of this Act. Provisions of 10 G. 4. c. 34 as to summary Conviction (save as hereby otherwise provided) extended to this Act.

VIII. And be it enacted, That this Act shall come into operation on the First Day of *September* One thousand eight hundred and thirty-nine, and shall continue in force for Five Years. Duration of Act.

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

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