

ANNO PRIMO

GULIELMI IV. REGIS.

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CAP. VII.

An Act for the more speedy Judgment and Execution in Actions brought in His Majesty's Courts of Law at *Westminster*, and in the Court of Common Pleas of the County Palatine of *Lancaster*; and for amending the Law as to Judgment on a Cognovit actionem in Cases of Bankruptcy.

[11th *March* 1831.]

WHEREAS the Judgment and Execution in Actions brought in His Majesty's Courts of Law at *Westminster* are often delayed by reason of the Interval between the Terms: Now, for the Prevention of such Delay, be it 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 any Writ of Inquiry of Damages to be issued in or by either of the said Courts, by whatever Form of Process the Action may have been commenced, may be made returnable and be returned on any Day certain, in Term or Vacation, to be named in such Writ, and such Writ shall be as valid and effectual as if the same had been returnable according to the Course of the Common Law; and thereupon at the Return thereof a Rule for Judgment may be given, Costs taxed, final Judgment signed, and Execution issued forthwith, unless the Sheriff or other Officer before whom the same may be executed shall certify under his Hand upon such Writ that Judgment ought not

Writs may be made returnable on any Day to be named therein.

Proceedings to be had at the Return thereof.

not to be signed until the Defendant shall have had an Opportunity to apply to the Court to set aside the Execution of such Writ, or One of the Judges of the said Courts shall think fit to order the Judgment to be stayed until a Day to be named in such Order: Provided always, that in case the signing of Judgment on such Writ shall be postponed by reason of such Certificate or Order, or by the Choice of the Plaintiff, or otherwise, and Judgment shall be afterwards signed thereon, such Judgment shall be entered of Record as of the Day of the Return of such Writ, unless the Court shall otherwise direct.

The Judge before whom any Action shall be tried may certify before the End of the Sittings or Assizes that Execution ought to issue forthwith;

in which Case Judgment may be signed, and Execution issued according to the Terms of the Certificate.

II. And be it further enacted, That in all Actions brought in either of the said Courts, by whatever Form of Process the same may be commenced, it shall be lawful for the Judge before whom any Issue joined in such Action shall be to be tried, in case the Plaintiff or Demandant therein shall become Nonsuit, or a Verdict shall be given for the Plaintiff or Demandant, Defendant or Tenant, to certify under his Hand, on the Back of the Record, at any Time before the End of the Sittings or Assizes, that in his Opinion Execution ought to issue in such Action forthwith, or at some Day to be named in such Certificate, and subject, or not, to any Condition or Qualification, and in case of a Verdict for the Plaintiff, then either for the Whole or for any Part of the Sum found by such Verdict; in all which Cases a Rule for Judgment may be given, Costs taxed, and Judgment signed forthwith, and Execution may be issued forthwith, or afterwards, according to the Terms of such Certificate, on any Day in Vacation or Term; and the Postea, with such Certificate as a Part thereof, shall and may be entered of Record as of the Day on which the Judgment shall be signed, although the Writ of Distringas juratores or Habeas corpora juratorum may not be returnable until after such Day: Provided always, that it shall be lawful for the Party entitled to such Judgment to postpone the signing thereof.

Entering and recording of Judgment.

Teste.

III. And be it further enacted, That every Judgment to be signed by virtue of this Act may be entered and recorded as the Judgment of the Court wherein the Action shall be depending, although the Court may not be sitting on the Day of the signing thereof; and every Execution issued by virtue of this Act shall and may bear Teste on the Day of issuing thereof; and such Judgment and Execution shall be as valid and effectual as if the same had been signed and recorded and issued according to the Course of the Common Law.

Judgment may be vacated, Execution stayed, and new Trial granted.

IV. Provided always, That notwithstanding any Judgment signed or recorded, or Execution issued, by virtue of this Act, it shall be lawful for the Court in which the Action shall have been brought to order such Judgment to be vacated, and Execution to be stayed or set aside, and to enter an Arrest of Judgment, or grant a new Trial or new Writ of Inquiry, as Justice may appear to require; and thereupon the Party affected by such Writ of Execution shall be restored to all that he may have lost thereby in such Manner as upon the Reversal of a Judgment by Writ of Error, or otherwise as the Court may think fit to direct.

V. Pro-

V. Provided always, and be it further enacted, That nothing in this Act contained shall be deemed to frustrate or make void any Provision relating to the issuing of any Writ of Habere facias possessionem, contained in the Act passed in the First Year of the Reign of His present Majesty, intituled *An Act for the more effectual Administration of Justice in* England *and* Wales. Not to affect Provision in 1 W. 4. c. 70. relating to Writs of Possession.

VI. Provided always, and be it further enacted, That no Officer of either of the said Courts shall, for the Purpose of taxing Costs on any Judgment to be signed by virtue of this Act, be compelled to attend at any Time between the last Day of *August* and the Twenty-first Day of *October* in any Year. Limitation as to taxing Costs.

VII. And whereas by an Act passed in the Sixth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to amend the Laws relating to Bankrupts*, it is provided, that no Creditor, though for a valuable Consideration, who shall sue out Execution upon any Judgment obtained by Default, Confession, or Nil dicit, shall avail himself of such Execution to the Prejudice of other fair Creditors, but shall be paid rateable with such Creditors: And whereas, by reason of such Provision, Plaintiffs have been and may be deterred from accepting a Cognovit actionem, with Stay of Execution, whereby the Expence of further Proceedings in such Action might have been and may be saved or diminished; for Remedy thereof be it enacted, That no Judgment signed or Execution issued after the passing of this Act on a Cognovit actionem signed after Declaration filed or delivered, or Judgment by Default, Confession, or Nihil dicit, according to the Practice of the Court, in any Action commenced adversely, and not by Collusion for the Purpose of fraudulent Preference, shall be deemed or taken to be within the said Provision of the said recited Act. No Judgment signed or Execution issued on a Cognovit signed after Declaration filed shall be deemed within the Provision of 6 G. 4. c. 16.

VIII. And whereas by an Act passed in the Twenty-second Year of the Reign of His late Majesty King *George* the Second, made and passed, among other Purposes, for the more frequent Return of Writs in the Counties Palatine of *Chester* and *Lancaster*, Writs of Capias ad respondendum may be made returnable in the Court of Common Pleas of the said County Palatine of *Lancaster* on the first *Wednesday* in every Month: And whereas by another Act passed at a Sessions of Parliament holden in the Thirty-ninth and Fortieth Years of the Reign of His late Majesty King *George* the Third, intituled *An Act for the better regulating the Practice and for preventing Delays in the Proceedings of the Court of Common Pleas at* Lancaster, Writs of Inquiry of Damages, and certain other Writs in the said Act in that Behalf mentioned, issued by and out of the same Court, may be made returnable on any of the Return Days in *Easter* and *Michaelmas* Terms respectively, according to the Course of His Majesty's Court of Common Pleas at *Westminster*, in addition to the first and last Days of each Assizes held for the said County; and it is expedient to quicken the Proceedings in the said Court of the said County; be it therefore enacted, That in lieu of the Return Days in *Easter* and *Michaelmas* Terms, all Writs of Inquiry of Damages, and other Writs in the said last-mentioned Act in that Behalf In lieu of the Return Days in Easter and Michaelmas Terms, all Writs of Inquiry of Damages, &c. to be returnable on the first Wednesday in every Month, in addition to the first and last Days of each Assizes.

Behalf mentioned, shall and may be made returnable in the said Court of the said County on the first *Wednesday* in every Month, in addition to the first and last Days of each Assizes held for the said County; and such Proceedings shall and may be had on the Return thereof as upon such Writs returnable according to the Law in force at and before the passing of this Act.

When Writs for removing Suits from inferior Courts shall be returnable.

IX. And whereas Persons suing in the inferior Courts of the said County Palatine of *Lancaster* are often vexatiously delayed in the Recovery of their just Demands by the Removal of their Suits into the said Court of Common Pleas, by reason that the Writs whereby the same are removed can be made returnable only at the Assizes holden for the said County; for Remedy thereof be it enacted, That all Writs of Pone loquelam, Recordari facias loquelam, Accedas ad curiam, and all other Writs now lawfully issued out of the Chancery of the said County Palatine of *Lancaster* for the Removal of Causes from the inferior Courts of the said County into the said Court of Common Pleas, which shall be issued after the Expiration of Fourteen clear Days next after the passing of this Act, shall be made returnable on the first *Wednesday* in the Month next after the issuing thereof, unless in the meantime the Assizes shall be holden for the said County, and if the Assizes shall be so holden in the meantime, then on the first or last Day of such Assizes, as the Case may be, next after the issuing thereof; and that all such Writs made returnable at any other Time than according to the Provision herein-before contained shall be utterly null and void to all Intents and Purposes.

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