

EXTENDING 3 AND 4 WM. 4, C. 42 ACT 1841

ACT No. XXVI. OF 1841

(Rep., Act 10 of 1877)

[18th October, 1841.]

Passed by the Right Hon'ble the Governor General of India in Council, on the 18th of October, 1841.

AN Act for extending in cases governed by English Law certain provisions of the Statute 3d and 4th William IV. Ch. XLII., entitled "An Act for the further amendment of the Law and the better advancement of Justice."

I. Whereas there is no remedy provided in cases governed by English Law for injuries to the Real Estate of any person deceased, committed in his life time, nor for certain wrongs done by a person deceased in his life time to another in respect of his property, real or personal ; for remedy thereof it is hereby enacted, that an action of Trespass or Trespass on the case as the case may be, may be maintained by the Executors or Administrators of any person deceased for any injury to the real Estate of such person, committed in his life time, for which an action might have been maintained by such person, so as much injury shall have been committed within six calendar months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person; and the damages when recovered, shall be part of the personal Estate of such person; and further that an action of Trespass or Trespass on the case, as the case may be, may be maintained against the Executors or Administrators of any person deceased for any wrong committed by him in his life time to another in respect of his property, real or personal, so as such injury shall have been committed within six calendar months before such person's death, and so as such action shall be brought within six calendar months after such Executors or Administrators shall have taken upon themselves the Administration of the Estate and Effects of such person; and the damages to be recovered in such action shall be payable in like order of Administration as the simple contract debts of such person.

II. And it is hereby enacted, that no wager of Law shall be hereafter allowed.

III. And it is hereby enacted, that an action of debt on simple contract shall be maintainable in any of Her Majesty's Courts against any Executor or Administrator.

IV. And it is hereby enacted, that it shall be lawful for the Defendant in all personal actions (except actions for Assault and Battery, False Imprisonment, Libel, Slander, Malicious Arrest or Prosecution, Criminal Conversations or Debauching of the Plaintiff's Daughter or Servant,) by leave of any of Her Majesty's Supreme Courts where such action is pending, or a Judge of any of the said Courts, to pay into Court a sum of money by way of Compensation or Amends, in such manner and under such regulations as to the payment of costs and the form of pleading as the said Judges or such Courts respectively shall by any rules or orders by them to be from time to time made, order and direct.

V. And it is hereby enacted, that it shall be lawful for the parties in any action or information, after issue joined, by consent and by order of any of the Judges of the said Courts, to state the facts of the case, in the form of a special case, for the opinion of the Court, and to agree that a judgment shall be entered for the Plaintiff or Defendant, by confession or of nolle prosequere, immediately after the decision of the case, or otherwise as the Court may think fit ; and judgment shall be entered accordingly.

VI. And it is hereby enacted, that the name of every witness objected to as incompetent on the ground that the judgment in the action would be admissible in evidence for or against him shall at the trial be indorsed on the Record or Document on which the trial shall be had, together with the name of the party on whose behalf he was examined by some Officer of the Courts, at the request of either party, and shall be afterwards entered on the record of the judgment; and such indorsement or entry shall be sufficient

evidence that such witness was examined in any subsequent proceeding in which the judgment shall be offered in evidence.

VII. And it is hereby enacted, that every such Court as aforesaid on the trial of any issue, or on any inquisition of damages, may, if they shall think fit give damages in the nature of interest, over and above the value of the goods at the time of the conversion or seizure, in all actions of Trover or Trespass de bonis aspartates, and over and above the money recoverable in all actions on Policies of Assurance made after the passing of this Act.

VIII. And it is hereby enacted, in case which would be governed by English Law, that it shall be lawful for the Executors or Administrators of any Lessor or Landlord to distrain upon the Lands Demised for any term, or at will, for the arrearages of rent due to such Lessor or Landlord in his life time, in like manner as such Lessor or Landlord might have done in his life time.

IX. And it is hereby enacted, that such arrearages may be distrained for after the end or determination of such Term or Lease at Will, in the same manner as if such Term or Lease had not been ended or determined ; provided that such distress be made within the space of six calendar months after the determination of such Term or Lease, and during the continuance of the possession of the Tenant from whom such arrears become due : provided also, that all and every the powers and provisions of Law relating to distresses for rent shall be applicable, to the distresses so made as aforesaid.
