

U. H. J. or shall arise and with the amendments Proposed in a Message here-Liber No. 34 with Sent will Pass.

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Amendments to the Assize Law

By the Upper house of Assembly 8 July 1747

The Words, and not Elsewhere, in the sixteenth Line of the first Page to be omitted for that such Words if Continued in the Bill, would Exclude the Provincial Court from taking Cognizance by a Tryal at Barr of such Crimes and Offences as are there mentioned and which may from the Nature and Importance of them some Times Require the most Solemn Determination and therefore the Kings Bench notwithstanding the assizes in England may and frequently have Tryals at Barr in such Causes, and this Government might be Questioned why any Jurisdiction over such Causes was Lessened or Excluded, In the 12th Line of the third Page Between, the words, the and Tuesday, Inserted first after the word Justice, in the Ninth Line of the 7th Page; put these words and Be it Enacted by Authority Advice and Consent aforesaid that the Justices of Assize Nisi Prius and Goal Delivery shall in all Civil Cases to be tryd before them where any Person Concerned shall Desire the same allow and Direct Special Verdicts to be found the amendment Proposed with Regard to Special Verdicts in Civil Cases only is the more Necessary as Our Judges are not Law[y]ers as they are in England and therefore cannot Certainly Determine any Point of Law that may be Sudently Started whereas if the Tracts are found Specially and at Large the Provincial Court may Divid them with more Certainty than they Can Possibly Decide at the Assizes and if the Provincial Court Should give an Erronius Judgement the Party affected with such Judgement will have a Remedy which cannot be the Case on a General Verdict as the facts cannot appear Besides Special Verdict are the best Expedients to guard against the Partiality Precipitancy or Ignorance of Jurymen and to prevent the Necessity of new Tryals, which are always attended with very Great Expence to the Suitores

In the 3^d Line of the eight Page, these words, unless the Party or Parties accused or Prosecuted Prays Judgement may be given immediately, that then and in such Case the Judge or Judges of Assize shall and may Proceed to Judgement therein, any Law Usage or Custom to the Contrary notwithstanding to be Omitted because they Clash with the next Proceeding part of the Clause, and it would be Obsurd to suppose the Judges can give any Judgemnt in any Case wherein they Doubt even altho the Party should Pray such Judgement after words Liable to, in the Second Line of the 12 Page add the words, and be it Enacted that the next Provincial Court shall begin the third Tuesday of October next after the End of this Session of Assembly and not before, and that all Actions now depending