Anno tricesimo primo

Georgii II. Regis.

An Act for the more easy and speedy Recovery of Small Debts within the Borough of *Great Yarmouth*, and the Liberties thereof.



WHEREAS the Borough of Great Yarmouth in the County of Norfolk, is a Port Town of very great Antiquity, and a great and extensive Trade and Commerce is carried on therein: And whereas the Mayor of the said Borough hath usually held Once in every Week a Court of Record, for the Trial of Civil Actions, commonly called The Borough Court, but as the Proceedings of the said Court in the lawful Course and Forms thereof, have been found to be expensive and dilatory, many ill disposed Persons do often contract Small Debts, and although able, refuse to pay the same, presuming on the Discouragements which Creditors lie under from the Expence which they are unavoidably put to, and the Delays which they meet with, in suing for such Debts: May it therefore please Your Majesty, that it may be enacted; and 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 Author- Preamble.

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rity of the same, That the Mayor, Justices of the Peace, and Aldermen of the said Borough, for the time being, and also the Thirty following Persons being Principal Inhabitants of the said Borough; that is to say, Richard Fuller Esquire, Robert Luson Esquire, Barry Brightin Love Esquire, Thomas Dawson, Charles le Grys, William Manning, John Morris, Thomas Adkin, Thomas Utting, Christopher Eaton, Gerrard Trotter, Edmund Cobb, William Palgrave, Pexall Forster, John Wright Merchant, John Ives the younger, John Smith Draper, William Fisher, William Peele, Anthony Taylor, John Eldridge, John Diboll, Samuel Wright Grocer, David Urquhart, John Crombie, Benjamin Lane, William Kett, Thomas Pitt, John Hurry, and John Norfor, shall be, and are hereby appointed Commissioners, to hear and determine all such Matters of Debt and Detinue, as are herein after mentioned; and said Commissioners, and their Successors, are hereby constituted a Court of Justice, by the Name of The Court of Requests for the Borough, Town, and Port of *Great Yarmouth*, and the Liberties thereof; and they the said Commissioners, or any Three or more of them, shall, and are hereby impowered and required to meet and hold the said Court on every Monday, or oftener if there shall be Occasion, in the Toll-house Hall of the said Borough, Town, and Port, or at any other convenient Place within the Liberties of the said Borough, to be appointed by the major Part of such of the Commissioners as shall be assembled at any such Meeting; and the said Commissioners, or any Three or more of them, from time to time, assembled at such Courts, are hereby authorized, and fully impowered, to hear and determine all such Causes as are hereafter mentioned, and to give such Judgements, and to make such Orders and Decrees therein, and to award Execution thereupon, with Costs, against the Body and Bodies, or against the Goods of all and every the Person and Persons against whom they shall give any such Judgement, or make any such Order or Decree, as to them shall seem just in Law or Equity; and if the Commissioners so assembled, shall happen to be equally divided upon any Question which may come before them, the Mayor of the said Borough for the time being, if present, or in his Absence, the Deputy Mayor, if present, or in his Absence, the senior Alderman present, and if no Alderman is present, the Commissioner present who stands First in the List of Commissioners, to be hung up in the Court or Place where the Commissioners shall meet, shall have the casting Vote.

If the Commissioners shall be equally divided upon any Question, who shall have the casting Vote.

And

And be it further enacted by the Authority aforesaid, That from time to time on the Decease or Resignation of any or either of the Thirty Commissioners herein before particularly named, or of any or either of their Successors, to be elected in Manner herein after immediately mentioned, it shall be lawful for the surviving or remaining Commissioners, or the major Part of such of them as shall be assembled at a Meeting to be held for that Purpose, within the Space of One Month next after such Decease or Resignation shall happen or be known, to elect and appoint One Commissioner in the Stead of such Commissioner so dying or refusing to act; and every such Commissioner so elected, shall be, and is hereby enabled to act in the Execution of the Powers hereby granted, as fully and effectually to all Intents and Purposes, as if he had been herein particularly named a Commissioner.

On Death, &c. of Commissioners, others to be chosen.

Provided always, That the Mayor, Justices of the Peace, and Aldermen of the said Borough, shall have no Vote in the Election of any such new Commissioner.

Civil Magistrates to have no Vote in the Election of Commissioners.

And be it further enacted by the Authority aforesaid, That from and after the Twenty fourth Day of June, One thousand seven hundred and fifty eight, it shall and may be lawful to and for any Person or Persons whatsoever, who now hath, have, or hereafter shall have, any Debt or Debts, Thing or Things, under the Value of Forty Shillings, due or owing, or belonging unto him, her, or them, in his, her, or their own Right, or as Executor, Administrator, Guardian, or Trustee, to any other Person or Persons, by or from any Person or Persons whatsoever, inhabiting or residing within the said Borough of Great Yarmouth, or the Liberties thereof, or using or frequenting the Markets thereof, or usually buying or selling, or seeking a Livelihood therein, or sailing or navigating to and from the said Port and Haven of Great Yarmouth aforesaid, to apply to any One of the Persons herein after nominated and appointed for that Purpose, who shall immediately make out and deliver to One of the Serjeants at Mace for the said Borough for the time being, (which said Serjeants at Mace are hereby appointed, authorized, and required, to execute all Warrants, Precepts, and Process, of the said Court of Requests) a Summons, in Writing, under his Hand, directed to such Debtor or Debtors, expressing the Sum or Thing demanded of him, her, or them; the Party demanding and requiring him, her, or them, to appear, at a certain Time and Place to be mentioned in such Summons, before the Commissioners of the said Court, to answer such Complaint; and the Serjeant at Mace shall forthwith cause

Method of Proceedings and Recovery of Debts in the said Court, not exceeding 40 s.

such Summons to be served on such Debtor or Debtors, either personally, or by leaving the same at the Dwelling-house, Lodging, Place of Abode, Shop, Shed, Stall, Stand, or other Place of dealing or trading of such Debtor or Debtors, being within the Limits of the said Borough, or the Liberties thereof, with his, her, or their Servant, or other Person belonging to him, her, or them; and that upon Proof made that such Summons hath been duly served, the said Commissioners, or any Three or more of them, assembled in Court, being a Majority of such Court, are hereby impowered and required to make due Inquiry concerning such Demands or Plaints, and make such Orders and Decrees therein, and pass such final Judgement or Sentence thereupon, and award Costs of Suit, as to them shall seem most agreeable to Equity and good Conscience; And for the better Discovery of the Truth, and more solemn Determination of Matters and Causes which shall be depending in the said Court, it shall be lawful for the said Commissioners, or any Three or more of them, assembled in Court, and they are hereby impowered, to administer, or cause to be administered, an Oath or Oaths to either of the Parties, and to such Witness or Witnesses, as shall be produced by each Party, and to the Officers of the said Court; and also to any other Person or Persons whose Evidence shall seem necessary towards the Hearing or Determining any of the said Causes, or making any Order or Decree therein, or for any other Purposes requisite to the Execution of this Act.

Debtor not appearing, being duly summoned, Court may examine the Plaintiff, and award reasonable Costs:

And be it further enacted by the Authority aforesaid, That if such Debtor or Debtors, who shall have been duly summoned as aforesaid, shall not appear before such Court at the Time and Place mentioned in the said Summons; then it shall and may be lawful to and for the said Commissioners, or any Three or more of them so assembled, being a Majority of the said Court, after due Proof made upon Oath of the Service of the said Summons in Manner aforesaid, to hear the Cause on the Part of the Plaintiff or Plaintiffs only, and to make such Order, Decree, or Judgement, and to award reasonable Costs of Suit, as to them shall seem most agreeable to Equity and good Conscience.

But if the Plaintiff become Nonsuited, the Court to award in favour of the Defendant.

And be it further enacted by the Authority aforesaid, That if upon the Day of the Return of the Summons, or at any Continuation or Adjournment of the said Court, the Plaintiff or Plaintiffs shall not appear, or appearing shall not make due Proof of his, her, or their Demand, to the Satisfaction of the Court, but become Nonsuited; it shall and may be lawful to and for the said Commissioners,

sioners, or any Three or more of them, being a Majority of the said Court, to award to the Defendant or Defendants reasonable Costs, and to order and oblige the Plaintiff or Plaintiffs to pay the same, by such Ways and Means as are herein provided for the Recovery of Debts, ordered and decreed by the said Court.

Process of Execution against the Party or Goods, to be issued on Judgement of the Court.

And be it further enacted by the Authority aforesaid, That in any Case where the said Commissioners, or any Three or more of them, as aforesaid, shall have made any Order or Decree for the Payment of Money, it shall and may be lawful to and for the said Commissioners, or any Three or more of them, being a Majority of the said Court, to award Execution either against the Body or Goods of the Party against whom such Order or Decree shall be made; and thereupon it shall and may be lawful for the Clerk of the said Court, at the Prayer of the Party prosecuting such Order or Decree for the Payment of Money, to issue a Precept under his Hand and Seal by Way of Capias ad Satisfaciendum, or Fieri Facias, to the Serjeants at Mace of the said Borough, or any One of them, who by virtue of any such Precept issued upon Execution awarded against the Body of such Party, shall and may, and is and are hereby impowered to take such Party, being within the said Borough, or Liberties thereof, and carry him, her, or them to the Common Gaol or House of Correction for the said Borough, there to remain until he, she, or they shall perform and obey such Order, Decree, or Judgement, so as no Person shall remain in Confinement upon any such Execution, for a longer Space than Three Calendar Months; and by virtue of any such Precept issued upon Execution awarded against the Goods of any such Party, shall and may, and is and are hereby impowered, to levy by Distress and Sale of the Goods of such Party, being within the said Borough, or Liberties thereof, such Sum or Sums of Money, and Costs, as shall be so ordered, decreed, and adjudged: And if the Party, against whose Body or Goods any such Execution shall be awarded, and Process thereupon shall issue, shall, by absconding, or by secreting his, her, or their Goods, or by any other Means, prevent or evade the Service or Effect of any such Execution; it shall and may be lawful to and for the said Commissioners, or any Three or more of them, assembled in such Court, being a Majority of the said Court, upon due Proof made to them, by the Oath or Oaths of One or more credible Witness or Witnesses, that the Service or Effect of the said Execution had been prevented or evaded, at their Discretion to award another Execution, either against the Body

Party may be committed, on Execution issued against his Body,

for any Time not exceeding 3 Months;

If Process issue against the Goods, there Sums due thereon may be levied by Distress and Sale.

Party absconding, or evading the Service of such Process,

Court, on Proof thereof, may award another Execution.

or Goods of such Party, and Process shall issue thereupon, and be served by the said Serjeants at Mace, or One of them, in Manner as is aforesaid: And in case the said Court shall at any Time, upon the Request, and for the Ease and Convenience, of the Defendant or Defendants, order, decree, or adjudge a Debt due to the Plaintiff or Plaintiffs, to be paid by several Payments, upon the first Default or Failure of any of the said Payments so ordered, decreed, and adjudged, the said Commissioners, or any Three or more of them, assembled in such Court, being a Majority of the said Court, at the Instance of the Plaintiff or Plaintiffs, and upon due Proof of the said Default or Failure, shall and may award Execution for the whole Debt, or such Part thereof as shall remain unpaid at the Time of such Default or Failure, together with such further Costs as to them shall seem meet, to be recovered by the same Methods and Means as are herein provided for the Recovery of a Debt and Costs first decreed; the former Order, Decree, or Judgement to the contrary notwithstanding.

Where the Court shall direct a Debt to be paid by several Payments,

the Defendant liable, on the First Default, to Execution for the whole Sum, and Costs.

And be it further enacted by the Authority aforesaid, That upon every Precept to be issued upon Execution awarded against the Body or Goods of any Person or Persons, the Clerk of the said Court shall indorse, or cause to be indorsed, the Sum or Sums and Costs so ordered, decreed, or adjudged, and the Costs of the said Execution; and if the Party against whom such Execution shall be awarded respectively, shall, before any actual Sale of the Goods, or before he or she is apprehended, or before the Expiration of the Term of his or her Imprisonment, pay, or cause to be paid or tendered, unto the Clerk of the said Court, such Sum or Sums and Costs, together with One Shilling, as a Reward for his Trouble in receiving and paying over the said Debt and Costs, and entering Acknowledgment of Satisfaction in full for the same; and also the Sum of Two Shillings and Two Pence for Gaol Fees (in case such Person or Persons shall have been committed to Prison) then and in any such Case, the Execution shall be superseded, and the Body or Goods of the said Party shall be discharged and set at Liberty.

Debt and Costs to be indorsed on the Back of the Process.

On Payment the cost, and Fees, Execution to be superseded.

And be it further enacted by the Authority aforesaid, That no Privilege, or pretended Privilege, shall be allowed to exempt any Person liable to be summoned by virtue of this Act, from the Jurisdiction of the said Court of Requests, on Account of his being a sworn Attorney or Solicitor of any of the Courts at Westminster, or of any Court whatsoever.

No Privilege to prevent the Execution of this Act.

And be it further enacted by the Authority aforesaid, That if any of the Serjeants at Mace who shall be employed to serve an Execution, shall, by wilful or notorious Neglect or Connivance, cause or suffer the Party against whom such Execution shall be awarded to escape or abscond, or the Goods of such Party to be carried away or secreted, so that such Execution shall not have its due Effect, it shall and may be lawful to and for the said Commissioners, or any Three or more of them, assembled at any such Court, being a Majority of the said Court, upon Complaint made, and due Proof thereof, upon the Oath or Oaths of One or more credible Witness or Witnesses, to order such Serjeant at Mace to pay the Sum or Sums of Money for which the said Execution was awarded, to the Party complaining, and to inforce the Payment thereof by the same Methods and Means as are herein provided for the Recovery of other Debts.

Officer suffering the Party to escape, or his Goods to be secreted,

liable, upon Conviction, to pay the Debt.

And be it further enacted by the Authority aforesaid, That, for the better regulating the Proceedings of the said Court, it shall and may be lawful to and for the said Commissioners, or any Six or more of them, assembled at any such Court, from time to time, to make such Rules and Orders for the better regulating the Practice of the said Court, and the Method of Proceeding therein, as shall seem to them most expedient and conducive to the Purposes of this Act; so that such Rules and Orders shall be agreeable to Law, and according to the true Intent and Meaning of this Act; which said Rules and Orders, having been signed by the said Six or more Commissioners, shall be in full Force, and be kept and observed by all the Commissioners thereafter holding, or to hold, the said Court, and their Officers, and the Suitors therein, until the same shall be repealed by the like Number of Commissioners.

Commissioners impowered to make Rules for regulating the Practice of the Court.

And be it further enacted by the Authority aforesaid, That no Person shall be capable of acting as a Commissioner in the Execution of this Act, until he shall have taken an Oath to the Effect following; that is to say,

Commissioners to take the following Oath before they act.

I *A. B.* do swear, That I will faithfully, impartially, and honestly, according to the best of my Judgement, hear and determine such Matters and Things as shall be brought before me by virtue an Act of Parliament, for the more easy and speedy Recovery of Small Debts within the Borough of *Great Yarmouth*, and the Liberties thereof, without Favour, Affection, or Prejudice, to either Party.

The Oath.

Oath to be administered by the Clerk, or one of the Commissioners.

Which Oath the Clerk of the said Court, or any One of the Commissioners who shall have taken such Oath, is hereby impowered and required to administer in open Court; and a Memorial thereof shall be entered in the Registers of the said Court by the said Clerk.

John Spurgeon, Gent. nominated Clerk of the Court, with Power to appoint a Deputy.

And be it further enacted by the Authority aforesaid, That John Spurgeon Gentleman, the present Town Clerk of the said Borough of Great Yarmouth, shall be, and is hereby, constituted and appointed Clerk of the said Court of Requests, during his good Behaviour in the said Office;

Business of the Clerk.

and shall have Power and Authority to appoint a Deputy; which said Clerk, or his Deputy, are hereby impowered and required to issue out all Warrants and Precepts, and to register all Orders, Decrees, and Judgements, of the said Court; and shall enter and register, or cause to be entered and registered, in proper Books to be provided by him, and kept for that Purpose, all the Acts and Proceedings of the said Court; and whenever it shall happen

Future Clerks by whom, and in what Manner, to be elected.

that the Place or Office of Clerk of the said Court shall become vacant by the Death, Resignation, or Removal, of the said John Spurgeon, or any other future Clerk of the said Court, the Mayor of the said Borough for the time being, shall, and is hereby required, within Ten Days after such Vacancy shall happen, to cause all the Commissioners for the time being to be summoned to meet at the Toll-house Hall of the said Borough, at a certain Time by him to be appointed, so as the same be not less than Four Days, nor more than Fourteen Days, after such Vacancy shall happen; and the Commissioners assembled pursuant to such Summons, or the major Part of them, shall nominate and appoint another fit and able Person to be Clerk of the said Court during his good Behaviour.

And whereas in the said Borough Court of Great Yarmouth, there anciently have been Four Attornies only who have been allowed to practise in the said Court, who hold their Offices during their good Behaviour, and may sustain great Loss by this Act, unless some Compensation be made to them for the same: Therefore be it further enacted by the Authority aforesaid, That Robert Woolmer, John Ramey, Bracey Taylor, and Thomas Manclarke the younger, Gentlemen; the Four present Attornies of the said Borough Court of the said Borough, and their Successors, Attornies of the said Borough Court for the time being, and every of them (as a Compensation for the Loss they may sustain in their said Offices by this present Act) shall and may, and are hereby authorized, impower-

The Four Attornies of the Borough Court for the time being, to issue Summonses at the first Instance.

ed, and required, to make out all Summonses at the first Instance, in such Manner as is herein before directed.

Fees allowed to be taken by the Officers of the Court.

And be it further enacted by the Authority aforesaid, That the several Fees hereafter limited and expressed, and no other, shall be taken by the said Clerk, and the said Four Attornies and Serjeants at Mace, for their several and respective Services in the Execution of this Act; that is to say,

For issuing every Summons, to the Attorney who issues the same, Six Pence.

For the Service of such Summons, and attending the Court with the Return, to the Serjeant Three Pence.

For entering the Cause, to the Clerk Six Pence.

For every Hearing, to the Clerk Three Pence, to the Attorney Three Pence.

For every Order, to the Clerk Three Pence, to the Attorney Three Pence.

For entering every Order, and making a Copy, if required, to the Clerk Three Pence, and to the Attorney Three Pence.

For the Service of every Order against a Party not in Court, and attending with the Return, to the Serjeant Six Pence.

For a Nonsuit on the Plaintiff's not appearing, to the Clerk Two Pence, and to the Attorney Two Pence.

For an Attachment against the Defendant for not appearing, to the Clerk Six Pence, to the Attorney Six Pence, and to the Serjeant for Service thereof One Shilling.

For acknowledging Satisfaction, to the Clerk Three Pence, to the Attorney Three Pence.

For an Execution, to the Clerk Six Pence, to the Attorney Six Pence, and to the Serjeant for Service thereof One Shilling.

For a Subpœna, to the Clerk Three Pence, to the Attorney Three Pence, and to the Serjeant for Service thereof Two Pence.

For paying Money into Court, to the Clerk Six Pence.

For every Search of the Books, to the Clerk Two Pence.

Table of Fees to be hung up in the Court.

A Table of which Fees shall, from time to time, be hung up by the Clerk of the said Court in some conspicuous Part of the said Court, or Place where the said Commissioners shall meet, so that all Persons who shall attend the said Court may see and read the same.

And

Penalty of taking greater or other Fees.

And be it further enacted by the Authority aforesaid, That if the said Clerk of the said Court for the time being, or his Deputy, or the said Attornies or Serjeants, or any of them, or any Person employed by or under them, or any of them, shall take or demand any greater or other Fee or Fees than as above mentioned, upon Complaint and due Proof thereof, upon the Oath or Oaths of One or more credible Witness or Witnesses made in open Court, the said Commissioners, or any Three or more of them, being a Majority of the said Court, shall, and are hereby impowered and required, from time to time, to punish such Offender by Fine, not exceeding Five Pounds, nor less than Ten Shillings for One Offence; to be levied by Distress and Sale of the Offender's Goods and Chattles, by Warrant under the Hands and Seals of the said Commissioners, or any Three or more of them, rendering to the Owner the Overplus (if any) after the Charges of such Distress and Sale are deducted; which Fine, when recovered, shall be paid to the Chamberlains of the said Borough, for the Use of the Corporation of Great Yarmouth aforesaid, in like Manner as other Fines within the said Borough, are, and have usually been paid: And if the said Clerk of the said Court for the time being shall be guilty of any notorious Misbehaviour, either by continually or frequently taking or demanding greater or other Fees than as aforesaid, or any otherwise, upon Complaint made, the said Commissioners, or any Three or more of them, shall in open Court, hear and inquire into the Matters of the said Misbehaviour by the Oath or Oaths of One or more credible Witness or Witnesses, and shall, if they (being a Majority of the said Court) shall think fit, certify the Particulars of the said Misbehaviour, with the Proofs thereof, unto the Mayor of the said Borough for the time being, who shall thereupon cause all the said Commissioners to be summoned to meet at a convenient Time and Place, and shall lay the same before the Commissioners assembled pursuant to such Summons, who shall take the same into Consideration, and may, according to their Discretion, suspend or remove the said Clerk so offending from his said Office, and nominate and appoint another fit and able Person to exercise the said Office in his Place and Stead.

Fine to be paid into the Chamberlain's Court, for the Use of the Corporation.

How the Commissioners are to proceed upon Complaint of Misbehaviour against the Clerk.

Power of the Court upon Conviction to suspend or remove him.

Where a Commissioner is Party to, or interested in a Cause, he is to withdraw, after giving Evidence.

And be it further enacted by the Authority aforesaid, That if any of the Commissioners of the said Court for the time being shall be a Party to, or interested in, any Cause depending in the said Court, such Person shall not be capable of acting as a Commissioner in the hearing or determining the said Cause, or making any Order, Decree,

Decree, or Judgement therein; but after being heard in the said Cause, shall withdraw until the same is finally determined: And if the Clerk of the said Court, or any other of the Officers thereof for the time being, shall be a Party to, or interested in, any Cause depending in the said Court, such Clerk, or other Officer, shall not exercise his said Office in the said Cause, or any thing relating thereto, but the said Commissioners, or any Three or more of them, assembled at such Court, being a Majority of the said Court, shall and may appoint another Person to exercise the Office of such Clerk or other Officer respectively, in all things relating to such Cause: And no Attorney of the said Borough Court, or Clerk or other Officer of the said Court of Requests, so long as they respectively continue in such Office, shall be capable of being nominated for, or acting as a Commissioner of the said Court.

and where the Clerk, or other Officers are interested, the Court is to appoint others to act for them.

Officers of the Court disqualified from being Commissioners.

And, for the more effectual Establishment of the said Court, and that the Commissioners thereof may be vested with a proper Authority, and be free and exempt from Insult and Abuse; be it enacted by the Authority aforesaid, That if any Person shall contemptuously and wilfully insult or abuse all or any of the Commissioners of the said Court for the time being, during their sitting in the said Court, or wilfully prevent or hinder them, or any of them, from proceeding in the Business of the said Court, it shall and may be lawful for the Serjeants of the said Court, by Order of the said Commissioners, or any Three or more of them, being a Majority of the said Court, to take such Offender or Offenders into Custody, and carry him, her, or them, before the Mayor, or any other Justice or Justices of the Peace for the said Borough; and upon the Insult, Abuse, or other Misbehaviour as aforesaid, being duly proved by the Oath or Oaths of One or more credible Witness or Witnesses, the said Mayor, Justice or Justices, shall punish every such Offender, either by Fine not exceeding Twenty Shillings, upon any One Person for any One Offence, to be levied by Distress and Sale of the Goods of the said Offender, or Imprisonment in the Common Gaol of the said Borough, for any Space of Time not exceeding Ten Days; and where the said Mayor, Justice or Justices, shall have imposed a Fine upon such Offender, and there shall not be found sufficient Goods of such Offender, whereupon such Fine can be levied, the said Mayor, Justice or Justices, shall and may by Warrant under his or their Hand or Seal, Hands or Seals, commit the said Offender to the Common Gaol of the said Borough, there to remain for any Space of Time

Penalty of insulting or abusing the Court during their Sitting.

not exceeding Ten Days; and all such Fines as aforesaid, shall, when levied, be paid and applied, in like Manner as the Fines herein before-mentioned are directed to be paid and applied; and the said Clerk of the said Court for the time being, shall, from time to time, cause a true Copy of this Clause to be fixed up in the Court or Place where the said Commissioners shall meet, in some conspicuous Part thereof, where the Persons resorting to the said Court may see and read the same.

Copy of this Clause to be fixed up in the Court.

If any Action for Debt under 40 s. shall be sued in any other Court,

And be it further enacted by the Authority aforesaid, That if in any Action of Debt, or Action on the Case, upon an Assumpsit for the Recovery of any Debt or Thing, to be sued or prosecuted against any Person or Persons as aforesaid, in any of the King's Courts at Westminster, or elsewhere, out of the said Court of Requests, the Plaintiff or Plaintiffs shall declare for any Sum of Money not amounting to Forty Shillings, the Defendant or Defendants may plead generally in Bar of such Action, that at the Time of commencing such Action, the Defendant or Defendants was or were liable to be warned or summoned before the said Court of Requests, without pleading any other Matter specially; and if the Plaintiff or Plaintiffs in any such Action, shall declare for any Sum amounting to Forty Shillings or more, the Defendant or Defendants may plead generally, over and above such Matters as aforesaid, that the Defendant or Defendants, was or were not at the Time of commencing such Action, indebted to the Plaintiff or Plaintiffs, in any Sum of Money amounting to Forty Shillings, without pleading any other Matter specially, and unto the said Pleas, the Plaintiff or Plaintiffs shall or may reply generally, and deny the Matter pleaded as aforesaid; and if the Plaintiff or Plaintiffs be nonsuited, or discontinue his, her, or their Action, or Verdict pass or Judgement on Demurrer, be given against him, her, or them, the Defendant or Defendants shall have Double Costs, unless the Judge who shall try such Cause, upon any such Plea or Pleas as aforesaid, shall in open Court certify on the Back of the Record, that there was a probable or reasonable Cause of Action for some Money or Thing of the Value of Forty Shillings or more, or that the said Cause was not within the Jurisdiction of the said Court of Requests, or that an Act of Bankruptcy principally came in Question.

the Court to award the Defendant Double Costs:

But the Plaintiff may afterwards sue for the same in the Court of Requests.

Provided always, That it shall and may be lawful to and for the Plaintiff or Plaintiffs in such Action, afterwards to prosecute the said Defendant or Defendants for the Recovery of the said Debt or Thing in the said Court

of

of Requests; any thing herein before contained to the contrary notwithstanding.

Debts recoverable in this Court not sueable elsewhere.

And be it further enacted by the Authority aforesaid, That no Action or Suit for any Debt or Thing not amounting to the Value of Forty Shillings, and recoverable by virtue of this Act in the said Court of Requests, shall be brought against any Person or Persons in any other Court whatsoever; and if any Action or Suit shall be brought in any other Court for any Matter within the Jurisdiction of the said Court of Requests, and concerning which any Order, Decree, or Judgement, shall have been made or given in the said Court of Requests, such Order, Decree, or Judgement, being pleaded or given in Evidence on the General Issue of such Action or Suit, shall, as to the Matters contained therein, be an effectual Bar to the Plaintiff or Plaintiffs in such Action or Suit; and the Registers or Books of Entry of the said Court, or true Copies proved by the Oath or Oaths of One or more credible Witness or Witnesses, shall be deemed legal Evidence of the Acts and Proceedings of the said Court; and no Suit which shall be commenced in the said Court of Requests in pursuance of this Act, nor any Proceeding therein, shall or may be removed into any superior Court but the same shall be final and conclusive to all Intents and Purposes.

Decree of the Court therein to bar all Actions in other Courts.

Cause not removeable to higher Courts, and Judgement to be final.

Limitation of the Powers of this Act with respect to certain Debts, &c.

Provided always, and be it enacted by the Authority aforesaid, That this Act or any thing herein contained, shall not extend to any Debt for Rent upon any Lease or Contract, where the Title of any Lands, Tenements, or Hereditaments, can or may come in Question; nor to any Debt, Matter, or Thing, that shall or may arise upon, or in any wise relate to or concern, any Cause of Testament or Matrimony, or any thing concerning or properly belonging to the Ecclesiastical Courts; nor for any Debt for any Money or Thing won at, or by Means of any Horse Race, Cock Match, or any Kind of Gaming or Play; nor for any Forfeiture upon any Penal Statute or By-law; nor to any Debt whereof there has been no Contract or Undertaking to pay within Six Years before the taking out the Summons, although the same shall be under the Value of Forty Shillings.

Jurisdiction of the Court of Admiralty not abridged by this Act.

Provided also, and be it enacted by the Authority aforesaid, That this Act or any thing herein contained, shall not take away, limit, or lessen, the Jurisdiction of the Court of Admiralty, held in and for the Borough and Port of Great Yarmouth aforesaid, by virtue of certain Royal Grants or Charters, but all Causes lawfully cognizable in that Court, may continue to be commenced, prosecuted,

secuted, and determined therein, according to the usual Course and Practice thereof, as heretofore hath been; any thing in this Act contained to the contrary notwithstanding.

Penalty of wilful and corrupt Perjury.

And be it further enacted by the Authority aforesaid, That if any Person or Persons, in making Oath or giving Evidence in any Cause or Matter depending in the said Court of Requests pursuant to this Act, shall commit wilful and corrupt Perjury, such Person or Persons being duly convicted thereof according to Law, shall incur and suffer such Pains and Penalties as any other Person or Persons convicted of wilful and corrupt Perjury is or are subject and liable to by the Laws and Statutes of this Realm.

Gaol Keeper, &c. to receive Prisoners committed by the Court.

And be it further enacted by the Authority aforesaid, That the respective Keepers, for the time being, of the Common Gaol or House of Correction within the said Borough, shall, and they are hereby required to receive and take into their Custody respectively, all and every Person and Persons who shall be committed, or ordered to stand committed, by any Three or more of the said Commissioners present in Court, being the Majority of such Court, or by virtue of any Warrant, Attachment, Execution, or other Process, issuing out of the said Court of Requests; and in case the Keeper of the said Gaol or House of Correction respectively, shall neglect or refuse to receive and take into his Custody, any Person or Persons committed by virtue of this Act, or shall, before the Expiration of the Time for which any Person or Persons shall be committed to his Custody, discharge such Person or Persons out of his Custody, or wilfully suffer such Person or Persons to go at Large, without Warrant or Order for that Purpose, in Writing, signed by Three or more of the said Commissioners present in Court; such Keeper respectively offending in either of the said Cases, and being thereof lawfully convicted before any One of his Majesty's Justices of the Peace for the said Borough upon the Oath of One or more credible Witness or Witnesses, or upon his own Confession, shall forfeit and pay for every such Offence, a Sum not exceeding Five Pounds, nor less than Forty Shillings, of lawful Money of Great Britain, at the Discretion of such Justice; and such Sum shall be immediately paid by the Person so offending, into the Hands of the Justice before whom such Offender shall be convicted; or, in Default thereof, shall be levied by Distress and Sale of the Offender's Goods, by Warrant under the Hand and Seal of such Justice, rendering the Overplus (if any be) to such Offender, the Charges of

Penalty of Refusal, or suffering the Prisoner to escape, or to go at large, &c.

such Distress and Sale being thereout first deducted; which Forfeiture, when paid or levied, shall be immediately paid over by such Justice, or by the Person who shall levy and receive the same, to the Chamberlains of the said Borough for the time being, or One of them, for the Use of the Mayor, Aldermen, Burgesses, and Commonalty, of the said Borough.

Penalty to be paid over to the Chamberlain for the Use of the Corporation.

And be it further enacted by the Authority aforesaid, That no Attorney of any Court of Record, shall be admitted to appear in the said Court of Requests, as Attorney or Advocate, on Behalf of any Plaintiff or Defendant, or be admitted to speak in any Cause or Matter before the said Court, in which such Attorney is not himself a Party or Witness, under a Penalty of Twenty Pounds, to be levied and applied as above-mentioned, with respect to Keepers of the said Gaol and House of Correction; nor shall any such Attorney act as a Commissioner in the said Court of Requests; any thing herein before contained to the contrary notwithstanding.

Attornies of the Court not admitted to plead or appear as Advocates, except where they are Parties to the Cause;

nor to act as Commissioners.

And be it further enacted by the Authority aforesaid, That in case any Person inhabiting or residing within the said Borough, shall be duly served with a Subpœna or Summons, to be issued by the Clerk of the said Court, to appear in the said Court of Requests, at a Time and Place in such Subpœna or Summons mentioned, to give Evidence on Behalf of any Plaintiff or Defendant, shall neglect or refuse to appear pursuant to such Subpœna or Summons, and due Proof being made of the Service of such Subpœna or Summons, and no Cause of Absence being shewn to the Satisfaction of the Majority of the Commissioners, present at the Court to which such Person shall be by such Subpœna or Summons required to appear; it shall and may be lawful to and for the said Commissioners, or any Three or more of them, assembled in such Court, and being a Majority of them, to impose a Fine not exceeding Twenty Shillings, nor less than Five Shillings, to be levied by Distress and Sale of the Offenders Goods, by Warrant under the Hands and Seals of the said Commissioners, or any Three or more of them, rendering the Overplus (if any be) to such Offender, the Charges of such Distress and Sale being thereout first deducted; which Fine, when paid or levied, shall be paid over to the Party or Parties at whose Instance, or on whose Behalf such Subpœna or Summons issued.

Penalty on Persons refusing to appear according to Summonses of the Court.

Fine to be paid over to the Party at whose Instance the Summons issued.

And be it further enacted by the Authority aforesaid, That no Writ shall be sued out against, nor any Copy of any Process at the Suit of any Person or Persons, shall be served on any of the said Commissioners for the

No Writ or Process without a Month's Notice to be served on any Commissioner.

for any thing done in the Execution of his Office.

time being, for any thing by him done in the Execution of his Office, until Notice in Writing of such intended Writ or Process shall have been delivered to him, or left at the usual Place of his Abode, by the Attorney or Agent for the Party who intends to sue, or cause the same to be sued or served, at least One Calendar Month before the suing out or serving the same; in which Notice shall be clearly and explicitly contained the Cause of Action, which such Party hath, or claimeth to have, against such Commissioner, on the Back of which Notice shall be indorsed the Name of such Attorney or Agent, together with the Place of his Abode, who shall be intitled to have the Fee of Twenty Shillings, for the preparing and serving such Notice, and no more.

Commissioner may tender Amends, and plead the same in Bar of the Action, &c.

And be it further enacted, That it shall and may be lawful to and for such Commissioner, at any Time within One Calendar Month after such Notice given as aforesaid, to tender Amends to the Party complaining, or to his or her Agent or Attorney; and in case the same is not accepted, to plead such Tender in Bar to any Action to be brought against him, grounded on such Writ or Process, together with the Plea of Not Guilty, and any other Plea with Leave of the Court; and if, upon Issue joined thereon, the Jury shall find the Amends so tendered to have been sufficient, then they shall give a Verdict for the Defendant; and in such Case, or in case the Plaintiff shall become Nonsuited, or shall discontinue his or her Action; or in case Judgement shall be given for such Defendant or Defendants, upon Demurrer, such Commissioner shall be intitled to the like Costs as he would have been intitled unto, in case he had pleaded the General Issue only; and if, upon Issue so joined, the Jury shall find that no Amends were tendered, or that the same were not sufficient, and also against the Defendant or Defendants in such other Plea or Pleas, then they shall give a Verdict for the Plaintiff, and such Damages as they shall think proper; which he or she shall recover, together with his or her Costs of Suit.

Court to give Judgement and award Costs.

Plaintiff not to recover where Notice as aforesaid has not been given.

And be it further enacted, That no such Plaintiff shall recover any Verdict against such Commissioner in any Case where the Action shall be grounded on any Act of the Defendant as a Commissioner, unless it is proved upon the Trial of such Action, that such Notice was given as aforesaid; but in Default thereof, such Commissioner shall recover a Verdict, and Costs, as aforesaid.

Commissioner may allow before Issue joined pay the Money into Court, &c.

And be it further enacted by the Authority aforesaid, That in case such Commissioner shall neglect to tender any Amends, or shall have tendered insufficient Amends, before

the Action brought, it shall and may be lawful for him, by Leave of the Court where such Action shall depend, at any Time before Issue joined, to pay into Court such Sum of Money as he shall see fit; whereupon such Proceedings, Orders, and Judgements, shall be had, made, and given, in and by such Court, as in other Actions where the Defendant is allowed to pay Money into Court.

No Evidence to be given by the Plaintiff but such as is contained in the Notice.

And be it further enacted, That no Evidence shall be permitted to be given by the Plaintiff on the Trial of any such Action as aforesaid, of any Cause of Action, except such as is contained in the Notice hereby directed to be given.

Limitation of Actions,

And be it further enacted by the Authority aforesaid, That if any Action or Suit shall be brought or commenced against any Person or Persons for any Matter or Thing done, or to be done, in pursuance of this Act, such Action or Suit shall be brought or commenced within Six Calendar Months next after the Fact committed, and not afterwards; and the Defendant or Defendants shall and may plead the General Issue, and give this Act, and the Special Matter, in Evidence, at any Trial to be had thereon; and if the Plaintiff or Plaintiffs shall become Nonsuited, or discontinue his, her, or their Action or Suit; or if, upon Verdict or Demurrer, Judgement shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall and may recover Treble such Costs as are usually taxed and allowed between Party and Party, and have such Remedy for the same as any Defendant or Defendants hath or have in any other Cases by Law.

General Issue.

Treble Costs.

Publick Act.

And be it further enacted by the Authority aforesaid, That this Act shall be deemed, adjudged, and taken to be a Publick Act, and be judicially taken Notice of as such by all Judges, Justices, and other Persons whomsoever, without the same being specially pleaded.

FINIS.