Anno ſecundo

Georgii III. Regis.

CAP. XXXVIII.

An Act for the more eaſy and ſpeedy Recovery of Small Debts, within the Town and County of the Town of *Kingſton upon Hull.*



WHEREAS the Town of Kingſton upon Hull is a Port Town, and great and extenſive Trade and Commerce is carried on therein: And whereas there are many ill-diſpoſed Perſons who 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: And whereas the providing of a more eaſy and ſpeedy Method for the Recovery of Small Debts, will greatly tend to promote Induſtry, as well as to ſupport and encourage uſeful Credit within the ſaid Town and County of the ſame: May it therefore pleaſe Your Majeſty, Preamble.

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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 Authority of the ſame, That the Mayor and Aldermen of the Town of Kingſton upon Hull for the time being, Thomas Broadley, Robert Carlill Broadley, Iſaac Broadley, Joſeph Hickſon, John Booth, Benjamin Blaydes the elder, Henry Etherington, Gardiner Eggington, John Greathed, John Gylby, James Hamilton, John Jarratt, Henry Maiſter, Thomas Mowld, John Moore, Samuel Martin the elder, John Mace, Henry Neve, Edmund Popple, John Porter, Robert Peaſe, William Thornton, William Turner, Joſeph Thompſon, Robert Thorley, Robert Wilberforce, Samuel Watſon the younger, Joſeph Williamſon, Thomas Williamſon, and William Waller, Eſquires; ſhall be, and are hereby, appointed Commiſſioners to hear and determine all ſuch Matters of Debt as are hereafter mentioned; and the ſaid Commiſſioners and their Succeſſors, are hereby conſtituted a Court of Juſtice by the Name of The Court of Requeſts for the Town, Port, and County of the Town of *Kingſton upon Hull*; 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 other Wedneſday, or oftener, if there ſhall be Occaſion, in the Town or Guild Hall of the ſaid Town, or at any other convenient Place within the ſaid Town and County, to be appointed by the major Part of ſuch of the Commiſſioners as ſhall be aſſembled at any ſuch Meeting; and the Firſt Meeting of the ſaid Commiſſioners ſhall be held on the Wedneſday Fortnight next after the paſſing of this Act; but ſo as the ſaid Meetings ſhall not impede or interrupt the Buſineſs at any Time to be done by or before his Majeſty's Juſtices of Aſſize, Juſtices of Oyer and Terminer, Juſtices of Gaol Delivery, or Juſtices of the Peace, uſually done, held, or kept, in the ſaid Town or Guild Hall; 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

Commiſſioners appointed.

They are conſtituted a Court of Requeſts.

Three impowered to hold a Court on *Wedneſday* in every Week.

Their Firſt Meeting.

Buſineſs of other Courts held in the Guild Hall, &c. not to be impeded by their Meetings.

Power and Buſineſs of the Court.

Caſting Vote upon any Queſtion where there is an Equality,

upon any Queſtion that may come before them, the Mayor of the Borough for the time being, 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 another and the caſting Vote.

to lie in the Mayor, ſenior Alderman, or Commiſſioner who ſtands firſt on the Liſt.

And be it further enacted by the Authority aforeſaid, That from time to time, on the Death or Refuſal to act of any or either of the 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 Mayor and Aldermen of the ſaid Town of Kingſton upon Hull for the time being, or the major Part of them when aſſembled together, and they are hereby required to aſſemble together within the Space of One Month next after ſuch Deceaſe or Refuſal to act ſhall happen or be known, or as ſoon after as conveniently may be, 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 to the Commiſſioners aforeſaid, as fully and effectually, to all Intents and Purpoſes, as if he had been particularly named herein as a Commiſſioner.

Method of Election of new Commiſſioners in the Room of ſuch as ſhall die, or refuſe to act.

And, to the end that no undue Preference may be made and given in ſummoning the ſaid Commiſſioners appointed, or to be appointed, in purſuance of this Act, to attend the ſaid Court, be it further enacted by the Authority aforeſaid, That the Serjeant of the ſaid Court for the time being, to be nominated or elected as herein after mentioned, ſhall ſummon the Mayor and One Alderman, or Two Aldermen together with Six other Commiſſioners, beginning with the Mayor and One Alderman, and Six other Commiſſioners who ſhall be firſt named in the Liſt of Commiſſioners to be hung up in the ſaid Court, to attend the ſaid Court as Commiſſioners for Two Weeks then next enſuing, and ſhall Once a Fortnight ſummon the like Number of Commiſſioners as they ſhall ſtand in Order and Rotation upon the ſaid Liſt.

The Order and Rotation in which the Commiſſioners are to be ſummoned to attend the Court.

Provided always, That nothing herein contained ſhall extend, or be conſtrued to extend, to exclude or debar any of the Commiſſioners for the time being from ſitting in the ſaid Court, although ſuch Commiſſioners ſhall not have been ſummoned, or ſtand in Rotation to be ſummoned, but that ſuch Commiſſioners, if they ſhall think fit ſo to do, ſhall and may ſit, hear, and determine, give Judgement, and make Orders and Decrees in the

Any Commiſſioner, though not ſummoned, or ſtanding in Rotation, may ſit and do Buſineſs in the Court.

ſaid Court; any thing herein before contained to the contrary thereof in any wiſe notwithſtanding.

Creditors may ſue for any Debt under 40 s. in the ſaid Court;

And be it further enacted by the Authority aforeſaid, That from and after the paſſing of this Act, 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 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 other Perſon or Perſons whatſoever inhabiting or reſiding within the ſaid Town of Kingſton upon Hull, or the County of the ſame Town, 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 Kingſton upon Hull aforeſaid, to apply to the Clerk of the Court for the time being, or his Deputy, who ſhall immediately make out and deliver to the Serjeant of the ſaid Court for the time being (who is hereby authorized and required to execute all Warrants, Precepts, and Proceſſes of the ſaid Court of Requeſts) a Summons in Writing under his Hand, directed to ſuch Debtor or Debtors, expreſſing the Sum 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 of the ſaid Court ſhall forthwith cauſe 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 Town or County, 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 Enquiry 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

and on Application to the Clerk, who ſhall ſummon the Debtor,

upon Proof of Service of the Summons, the Commiſſioners are to enquire into the Demand, and paſs final Judgement thereupon.

they are hereby impowered to adminiſter, or cauſe to be adminiſtered, an Oath or Oaths to either of the ſaid Parties willing to be examined touching the Matters then in Queſtion, 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.

and in the Courſe of their Enquiry may adminiſter an Oath to the Witneſſes and Officers of the Court.

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.

Debtor not appearing, Court may hear the Cauſe on the Part of the Plaintiff, and paſs Judgement thereon, with Coſts.

And be it further enacted by the Authority aforeſaid, That if upon the Day of 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 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, 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.

Plaintiff not appearing, or being nonſuited; Coſts to be awarded to the Defendant.

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 the Money, to iſſue a Precept under his Hand

Upon Order of the Court for Payment of Money, Execution is to be awarded againſt the Body or Goods of the Party.

Hand and Seal, by way of Capias ad satisfaciendum, or Fieri facias, to the Serjeant of the said Court, who, by virtue of any such Precept issued upon Execution awarded against the Body of such Party, shall and may, and is hereby impowered to take such Party, being within the said Town or County of the Town of Kingston upon Hull, and carry him, her, or them, to the Common Gaol or House of Correction for the said Town, 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 hereby impowered to levy by Distress and Sale of the Goods of such Party, being within the said Town or County, 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 or Goods of such Party, and Process shall issue thereupon, and be served by the Serjeant of the said Court, 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, or 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;

Upon Execution issued against the Body of the Party, the Confinement is not to exceed 3 Months.

If the Service, or Effects of the Execution, be prevented or evaded,

the Court may award another Execution.

Upon the first Default of Payment of any Money decreed to be paid by several Payments,

the Court may award Execution for the whole Debt, with further Costs.

creed; the former Order, Decree, or Judgement, to the contrary notwithſtanding.

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 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 Acknowledgement of Satisfaction in full for the Sum, and alſo the Sum of Two Shillings and Six 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 ſuperſeeded, and the Body or Goods of the ſaid Party ſhall be diſcharged and ſet at Liberty.

The Debt and Coſts to be marked on the Back of the Precept;

and on paying in the ſame to the Clerk of the Court, before Execution takes Effect, with the Fees due to the reſpective Officers, &c.

Execution is to be ſuperſeeded.

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 other Court whatſoever.

No Perſon exempted from the Juriſdiction of the Court on account of being an Attorney or Solitor.

And be it further enacted by the Authority aforeſaid, That if the Serjeant of the ſaid Court, 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 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 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.

Where Execution ſhall not have its due Effect, through the Neglect or Connivance of the Officer,

ſuch Officer is liable to pay the Debt.

Commiſſioners to take the following Oath,

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,

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 of an Act of Parliament for the more eaſy and ſpeedy Recovery of Small Debts within the Town and County of the Town of *Kingſton upon Hull*, without Favour, Affection, or Prejudice, to either Party.

to be adminiſtered by the Clerk, and regiſtered.

Which Oath the Clerk of the ſaid Court, or any 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 Baxby, Gent. conſtituted Clerk of the Court;

And be it further enacted by the Authority aforeſaid, That John Baxby, of Kingſton upon Hull aforeſaid, Gentleman, ſhall be, and is hereby conſtituted and appointed, Clerk of the ſaid Court of Requeſts, during his good Behaviour in the ſaid Office, and ſhall have Power and Authority, from time to time, to appoint a Deputy;

with Power to appoint a Deputy.

which ſaid Clerk or his Deputy are hereby impowered and required to iſſue out all Summonſes, 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.

John Mimby appointed Serjeant.

And be it further enacted by the Authority aforeſaid, That John Mimby, of Kingſton upon Hull aforeſaid, ſhall be and is hereby conſtituted and appointed Serjeant of the ſaid Court of Requeſts for the ſerving of Summonſes, and executing ſuch Orders, Warrants, and Precepts, and doing and performing ſuch other Acts, Matters, and Things, as are herein appointed to be done by him.

Vacancies of Clerk and Serjeant how to be filled up.

And be it further enacted by the Authority aforeſaid, That whenever it ſhall happen that the Place or Places of Clerk and Serjeant ſhall become vacant, the Mayor of the ſaid Town for the time being ſhall, and is hereby required, within Ten Days after ſuch Vacancy ſhall happen, to cauſe all the ſaid Commiſſioners for the time being to be ſummoned to meet at the Town or Guild Hall of the ſaid Town, at a certain Time by him to be appointed, ſo as the ſame ſhall not be leſs than Four Days nor more than Fourteen Days after ſuch Vacancy ſhall happen,

pen, and the Mayor for the time being have Knowledge thereof; and the Commiſſioners aſſembled purſuant to ſuch Summons, or the major Part of them ſo aſſembled, ſhall nominate and appoint another fit and able Perſon or Perſons to be Clerk and Serjeant of the ſaid Court during his or their good Behaviour.

Fees allowed to the Clerk and Serjeant.

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 Serjeant for their ſeveral and reſpective Services in the Execution of this Act; that is to ſay,

For iſſuing every Summons, to the Clerk, Six Pence.

For Service of every 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.

For every Order, to the Clerk, Three Pence.

For entering every Order and making, to the Clerk, Three Pence.

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

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

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

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

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

For a Subpœna, to the Clerk, Three Pence; 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.

A Table thereof 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.

Penalty of demanding or 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 Serjeant of the ſaid Court for the time being, or any of them, ſhall knowingly take or demand any

any greater or other Fee or Fees than is herein 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 required and impowered from time to time, to puniſh ſuch Offender by Fine not exceeding Forty Shillings, 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 and Fines, when recovered, ſhall be paid to the Treaſurer or Treaſurers for the time being of the Governor, Deputy Governor, Aſſiſtants, and Guardians, of the Poor of Kingſton upon Hull aforeſaid, for and towards the Maintenance of ſuch Poor as ſhall or may be chargeable to the ſaid Town: And if the Clerk or Serjeant of the ſaid Court, or either of them, for the time being, ſhall be guilty of any notorious Miſbehaviour, either by frequently taking or demanding greater or other Fees as aforeſaid, or otherwiſe, in the Execution of their reſpective Offices, upon Complaint made, the ſaid Commiſſioners, or any Three or more of them, ſhall, in open Court, hear and enquire 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, think fit, certify the Particulars of the ſaid Miſbehaviour, with the Proofs thereof, unto the Mayor of the ſaid Town 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 or Serjeant ſo offending from his ſaid Office, and nominate and appoint another fit and able Perſon to exerciſe the ſaid Office, in the Place and Stead of him ſo removed.

not to exceed 40 *s.* nor be leſs than 10 *s.* for One Offence;

and to be paid to the Treaſurer of the Guardians of the Poor.

Clerk or Serjeant guilty of notorious Miſbehaviour in the Execution of their Offices,

the Court may inquire into the ſame, and certify the Particulars to the Mayor,

who ſhall thereupon ſummon a General Meeting of the Commiſſioners, and they may ſuſpend or remove the Delinquent.

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 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, or Judgement therein, but after being heard in the ſaid

A Commiſſioner who is a Party to, or intereſted in, any Cauſe depending in the Court, is to withdraw, after being heard, till the ſame is determined.

Cauſe, ſhall withdraw until the ſame is finally determined; and if the Clerk or other Officer of the ſaid Court 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.

the Clerk or other Officer, being intereſted in like Manner, the Court is to appoint another Perſon to act *pro tempore*.

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 or Perſons ſhall contemptuouſly and wilfully inſult or abuſe all or any of the Commiſſioners, or other Officers of the ſaid Court, for the time being, during their ſitting in the ſaid Court, or going to or from the ſaid Court, or ſhall interrupt or obſtruct the Proceedings of the ſaid Court, it ſhall and may be lawful for the Serjeant of the ſaid Court, with or without the Aſſiſtance of any other Perſon or Perſons, 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 Town, 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 Forty Shillings, nor under Five Shillings, upon any One Perſon for any One Offence, to be levied by Diſtreſs and Sale of the Goods of ſuch Offender; or Impriſonment in the Common Gaol of the ſaid Town for any Space of Time not exceeding Two Months; and where the ſaid Mayor 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 and Seal, or Hands and Seals, commit the ſaid Offender to the Common Gaol of the ſaid Town, there to remain for any Space of Time not exceeding Two Months; and all ſuch Fines as aforeſaid, ſhall, when raiſed or 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,

Perſons who ſhall inſult or abuſe the Court, while ſitting, or any of the Members thereof, going to or from the ſame, or ſhall interrupt the Proceedings,

may be puniſhed by Fine or Impriſonment.

Where the Fine can't be levied, the Offender is to be committed.

Application of the ſaid Fines.

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

from time to time, cause a true Copy of this Clause to be fixed up in the said 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.

Action for Debts recoverable in this Court are not to be brought in any other.

And be it further enacted by the Authority aforesaid, That no Action or Suit for any Debt 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 concerning which any Order, Decree, or Judgement, shall have been before 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 attested under the Hand of the Clerk of the said Court of Requests for the time being, and 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 of Requests; and no Suit which shall be commenced in the said Court of Requests in pursuance of this Act, nor any Proceedings therein, shall or may be removed into any superior Court, but the same shall be final and conclusive to all Intents and Purposes.

The Registers of the Court, or true Copies thereof, deemed legal Evidences.

Proceedings, &c. not liable to be removed into a superior Court.

Specification of Debts, &c. not suable in this Court.

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, Wager, or any Kind of Gaming, or Play, nor for any Forfeiture upon any Penal Statute or Bye-Law, nor to any Debt whereof there has not been a Contract, Acknowledgement, Undertaking, or Promise, to pay within Six Years before the taking out the Summons, although the same shall be under the Value of Forty Shillings.

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

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, are, or shall be subject and liable to by the Laws and Statutes of this Realm.

The respective Keepers of the Common Gaol and House of Correct on are to receive and keep in safe Custody, &c. all Persons committed by Order of 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 Town 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 a Warrant or Order for that Purpose in Writing, signed in Court by Three or more of the said Commissioners (being a Majority of the said Commissioners present) such Keeper respectively offending in either of the said Cases, and being thereof convicted before any One or more of His Majesty's Justices of the Peace for the said Town and County, 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 or Justices; 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 such Distress and Sale being thereout first deducted; which Forfeiture, when paid or levied, shall be immediately paid and applied in like Manner as the Fines herein before mentioned are directed to be paid and applied.

on Penalty of forfeiting not exceeding 5 *l.* nor less than 40 *s.*

to be levied by Distress and Sale,

and to be paid and applied as other Fines.

And be it further enacted by the Authority aforesaid, That no Attorney of any Court of Record shall be admitted

No Attorney to be admitted as an Advocate in a Cause;

nor to ſpeak in the Court where he is not a Party or Witneſs, on Penalty of 20*l.*

mitted to appear in the ſaid Court of Requeſts as Attorney or Advocate in 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 by Diſtreſs and Sale as above mentioned, with reſpect to Keepers of the ſaid Gaol or 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.

nor to act as a Commiſſioner.

Witneſs being duly ſummoned, refuſing to appear and give Evidence,

And be it further enacted by the Authority aforeſaid, That in caſe any Perſon or Perſons reſiding within the ſaid Town and County, ſhall be duly ſerved with a Subpœna or Summons, to be iſſued by the Clerk of 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 Commiſſioners preſent at the Court to which ſuch Perſons ſhall be by ſuch Subpœna or Summons required to appear, and Oath being made before the ſame Commiſſioners, by the Party or Parties at whoſe Inſtance or on whoſe Behalf ſuch Subpœna or Summons iſſued, that the Perſon or Perſons ſerved therewith, was or were a material Witneſs or Witneſſes for ſuch Party or Parties, 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 Fifty Shillings, nor leſs than Five Shillings; to be levied by Diſtreſs and Sale of the Offender's Goods, by Warrant under the Hands and Seals of the ſaid Commiſſioners, or any Three or more of them, rendering the Overplus (if any) to ſuch Offender, the Charges of ſuch Diſtreſs and Sale being 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.

may be fined by the Court, not exceeding 50*s.* nor leſs than 10*s.*

to be levied by Diſtreſs and Sale,

and paid over to the Party injured.

No Writ may be ſued againſt any Commiſſioner or Officer of the Court, for any thing done in the Execution of their reſpective Offices,

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, or any of the Officers of the ſaid Court for the time being, for any thing by him or them done in the Execution of his or their reſpective Office or Offices, until Notice in Writing of ſuch intended Writ or Proceſs ſhall have been delivered

to

to him or them, or left at the uſual Place of his or their 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 or Officer; 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 of ſuch Notice, and no more.

until they ſhall have been firſt ſerved with due Notice thereof.

Attorney's Fee for preparing and ſerving ſuch Notice.

And be it further enacted by the Authority aforeſaid, That it ſhall and may be lawful to and for ſuch Commiſſioner or Officer, at any Time within One Calendar Month after ſuch Notice given as aforeſaid, to tender Amends to the Party complaining, or to his Attorney or Agent; and in caſe the ſame ſhall not be 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 Defendant 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.

Defendant thereupon may tender Amends;

and if the ſame ſhall be found ſufficient, Verdict to be given for the Defendant;

if none or inſufficient Amends were tendered, &c.

Plaintiff to recover Damages and Coſts.

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

If Notice as aforeſaid has not been given, Defendant to recover.

And be it further enacted by the Authority aforeſaid, That in caſe ſuch Commiſſioner or Officer ſhall neglect to tender any Amends, or ſhall have tendered inſufficient Amends before the Action brought, it ſhall and may be lawful for him,

Defendant may alſo pay Money into Court, before Iſſue joined.

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 on the Trial, but what 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 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 Cauſe of Action ſhall ariſe, and not afterwards, and ſhall be laid and brought in the Town or County of Kingſton upon Hull, or in the County of York, and not elſewhere; and the Defendant or Defendants on ſuch Action or Suit, 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 it ſhall happen to be done in purſuance of this Act, or that ſuch Action or Suit ſhall be brought after the Time herein before limited in that Behalf, or ſhall be brought in any other County or Place than as aforeſaid, then the Jury ſhall find for the Defendant or Defendants; and upon ſuch Verdict, or 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.

SECRETARY OF STATE'S WAR OFFICE LIBRARY

Anno Regni GEORGII III. REGIS

Magnæ Britanniæ, Franciæ, & Hiberniæ,

SECUNDO.

At the Parliament begun and holden at *Weſtminſter*, the Nineteenth Day of *May*, *Anno Dom.* 1761, in the Firſt Year of the Reign of our Sovereign Lord *GEORGE* the Third, by the Grace of God, of *Great Britain*, *France*, and *Ireland*, King, Defender of the Faith, *&c.*

And from thence continued by ſeveral Prorogations to the Third Day of *November* following; being the Firſt Seſſion of the Twelfth Parliament of *Great Britain.*



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