Anno quarto

Georgii III. Regis.

CAP. XLI.

An Act for the more eaſy and ſpeedy Recovery of Small Debts in the Town and Pariſh of *Kirkby in Kendal*, in the County of *Weſtmorland*.



WHEREAS a great Trade is carried on in the Town and Pariſh of Kirkby in Kendal, in the County of Weſtmorland, and the Inhabitants thereof have of late Years greatly increaſed: And whereas many poor honeſt Perſons are obliged to contract Small Debts within the ſaid Town and Pariſh, and Limits of the ſame, and they being frequently rendered unable to pay the ſaid Debts in due Time, their Creditors do often bring Suits and Actions againſt them for Recovery of the ſame, and in Conſequence thereof their Goods and Effects are ſeized and ſold, or their Perſons impriſoned, to the utter Ruin of themſelves and Families, the Loſs of their Labour to the Publick, and the great Burthen and Charge of the Pariſh or Townſhip Preamble.

7

Township to which they belong: For Remedy whereof, and to the Intent that some other easy and speedy Method may be provided for the Recovery and Payment of Small Debts within the said Town and Parish and the Limits thereof: May it please your most Excellent 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 Authority of the same, That it shall and may be lawful for the Mayor and Recorder, or Deputy Recorder, of the said Town for the time being, and Thomas Strickland Esquire, John Shaw, Christopher Wilson, John Thomson, Gilbert Crackenthorp, Thomas Wilson the younger, Gentlemen; Thomas Holme Esquire, Richard Fell, Thomas Gibson, George Braithwaite, Benjamin Fletcher, William Baxter, Gentlemen; William Sympson Esquire, Samuel Gawthrop, Thomas Ashburner, Mathew Bell, Bryan Wilson, Thomas Dodgson, Gentlemen; or any Three or more of them, to assemble in the Town's Hall, or some other convenient Place within the said Town of Kirkby in Kendal; and they are hereby respectively impowered and required to meet on Thursday the Third Day of May, One thousand seven hundred and sixty four, then and there to act as Commissioners for the hearing and determining of all such Matters of Debt and Detinue as are hereafter mentioned; which said Commissioners, or any Three or more of them as aforesaid, from time to time, shall be and are hereby declared, nominated, constituted, appointed, and made a Court of Justice, by the Name of The Court of Requests for the Town and Parish of *Kirkby in Kendal*, in the County of *Westmorland*, and Limits thereof; and the said Commissioners, or any Three or more of them, are hereby authorized, impowered, and required, to assemble, sit, and hold the said Court Once in every Three Weeks (or oftener if Occasion shall be) from and after the said Third Day of May, videlicet, on Thursday in such Week; and the said Commissioners for the time being, or hereafter to be appointed for the Purpose aforesaid, or any Three or more of them, shall have Power and Authority by virtue of this Act to hear and determine all such Causes as are hereafter mentioned, and to pronounce such Judgement, and to make such Order and Decree, and to award Execution thereupon with Costs against the Body, or against the Goods and Chattles of all and every of the Person or Persons

Commissioners Names.

ſons againſt whom they ſhall give ſuch Judgement, make ſuch Order or ſuch Decree, as to them ſhall ſeem juſt in Law or Equity, ſo as no Perſon or Perſons ſhall remain in Priſon upon any Execution for a longer Space than Three Calendar Months.

Proviſo. Provided always, and be it further enacted by the Authority aforeſaid, That no Perſon or Perſons whatſoever, except the Perſons hereby appointed, or hereafter to be appointed Commiſſioners for the Purpoſes aforementioned, ſhall have any Voice in the ſaid Court of Requeſts, held or to be held under the Authority of this Act.

Commiſſioners to aſſemble at a certain Place. And be it further enacted by the Authority aforeſaid, That the Commiſſioners in this Act named, or any Six or more of them, ſhall meet and aſſemble in the Town's Hall, or ſome other convenient Place within the ſaid Town of Kirkby in Kendal; and they are hereby authoriſed and required to aſſemble as aforeſaid on the Third Day of May, One thouſand ſeven hundred and ſixty five, or at any Time within Six Days from the ſaid Third Day of May, One thouſand ſeven hundred and ſixty five, as the Mayor of the ſaid Town, or any Six or more of the ſaid Commiſſioners for the time being, ſhall appoint, then and there to elect, nominate, and aſſign, Six of the moſt ſubſtantial and diſcreet Gentlemen, Merchants, Houſholders, or Inhabitants, Shopkeepers or Tradeſmen, reſiding or inhabiting within the ſaid Town and Pariſh or the Limits thereof, who ſhall be Commiſſioners for the Purpoſes in this Act before mentioned, in the Room, Place, or Stead, of the Six laſt named by this Act; and that on the Third Day of May, One thouſand ſeven hundred and ſixty ſix, or within Six Days after, the Commiſſioners for the time being, or Six or more of them, on a Day appointed by the Mayor of the ſaid Town for the time being, or Six or more of the ſaid Commiſſioners, ſhall aſſemble as before directed, and ſhall then and there elect, nominate, and aſſign Six more of the Gentlemen, Merchants, Houſholders, or Inhabitants, Shopkeepers or Tradeſmen, reſiding or inhabiting within the Town and Pariſh or Limits thereof as aforeſaid, who ſhall be Commiſſioners in the Room, Place, or Stead of the Six Secondly named by this Act; and that on the Third Day of May, One thouſand ſeven hundred and ſixty ſeven, or within Six Days after, Six new Commiſſioners ſhall be elected in the Room, Place, or Stead, of the Six firſt named by this Act, in like Manner as is

To be choſen in Rotation.

herein before directed; and from time to time, on the Third Day of May in every succeeding Year, or within Six Days after, as before appointed, Six new Commissioners in the Room, Place, or Stead, of the Six who have served Three Years, shall be elected by the Commissioners for the time being, or Six or more of them, as before directed.

Commissioners to elect a Clerk.

And be it further enacted by the Authority aforesaid, That the Commissioners of the said Court of Requests for the time being, or any Six or more of them, shall have full Power and Authority to elect and appoint, and they are hereby authorized and required to elect and appoint, on the Third Day of May, One thousand seven hundred and sixty four, or within Six Days after, on such Day as shall be appointed by the Mayor of the said Town, or Six of the said Commissioners, as before directed, One or more fit Person or Persons, who shall be Clerk or Clerks of the said Court of Requests during the Pleasure of the Commissioners, or the major Part of them, for the time being; which said Clerk or Clerks, or One of them, his or their Deputy or Deputies, shall and they are hereby impowered and required to issue out and register all Summonses, Warrants, Precepts, Acts, Orders, Decrees, Judgements, Attachments, and Proceedings of the said Court, and shall keep proper Books, wherein shall be entered and registered all Acts, Orders, and Proceedings of the same Court: And the said Commissioners, or any Six or more of them, for the time being, shall also at the same Time nominate and assign Two or more proper Persons to be Officers or Ministers of the said Court of Requests, to execute Summonses, Warrants, Precepts, Orders, Decrees, Attachments, and other Processes of the said Court; which said Officers shall be and continue Officers or Ministers of the said Court during the Pleasure of the Commissioners, or the major Part of them, for the time being; and which said Clerk or Clerks, his or their Deputy or Deputies, Officers or Ministers, shall take an Oath before the said Commissioners, or any Three or more of them, well and truly to execute their said Offices; which said Oath the said Commissioners for the time being, or any Three or more of them, are hereby authorized and impowered to administer.

Commissioners to issue a *Capias*.

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

and may be lawful for the Clerk or Clerks of the said Court of Requests, or any of them, their or any of their sufficient Deputy or Deputies, at the Prayer of the Party or Parties, his or their Agent or Agents, prosecuting such Order or Decree for the Payment of Money, to issue a Precept under his or their Hands and Seals, in the Name of a Fieri facias, or Capias ad satisfaciendum; which Precept shall be directed to such Officer or Officers as shall be by the said Commissioners, or any Six or more of them for the time being, appointed to execute the same; who is and are hereby authorized and required to levy, or cause to be levied, the Sum or Sums of Money mentioned in such Precept, in the same Manner as any Sheriff may levy Money by virtue of any Writ of Fieri facias, or Capias ad satisfaciendum, issuing out of any of his Majesty's Courts of Record at Westminster.

Penalty on Persons refusing to obey Subpœna's of the Court.

And be it further enacted by the Authority aforesaid, That in case any Person or Persons residing within the said Town and Parish, who shall be duly served with a Subpœna or Summons to be issued by the said Clerk of the 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 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.

Creditors may sue for Debts under 40 s.

And be it further enacted by the Authority aforesaid, That from and after the said Third Day of May, One thousand seven hundred and sixty four, or from and after the Meeting appointed to be held within Six Days after, by the Mayor of the said Town, or Six or more of the said Commissioners for the time being, as before directed, it shall and may be lawful to and for any Person or Persons, whether resiant or not resiant in the said Town and Parish of Kirkby in Kendal, or the Limits of the same, who now or hereafter shall or may have any Debt or Debts, Thing or Things, due or owing, or belonging unto him or them, in his, her, or their own Right, or as Executor or Administrator, Guardian or Trustee, for or to any Person or Persons whatsoever, not amounting to or of the Value of the Sum of Forty Shillings, by any Person or Persons whatsoever, as well Attornies as others, residing, inhabiting, or seeking a Livelihood in, or trading to or within the said Town and Parish of Kirkby in Kendal, or the Limits of the same, to apply to the Clerk or Clerks of the said Court of Requests, or their sufficient Deputy or Deputies, who shall cause such Person or Persons to be warned or summoned by the said Officer or Officers as aforesaid, who is or are hereby appointed, authorized and required, to execute all Warrants, Precepts, and Processes of the said Court of Requests, by personal Service on the Party or Parties, or by Writing left at the Dwelling-house, Place of Abode, or other Lodging, or at the Stall or Shop of such Person or Persons, within the said Town and Parish of Kirkby in Kendal, or Limits of the same, to appear before the Commissioners of the said Court, to be held in the Towns's Hall of the same Town, or other Place to be provided as aforesaid: And the said Commissioners, or any Three or more of them, shall, after such Summons as aforesaid, have full Power and Authority, by virtue of this Act, to make, or cause to be made, such Acts, Order or Orders, Decrees, Judgements, and Proceedings, between the Parties touching such Debt or other Things, not amounting originally to the Sum or Value of Forty Shillings, as they shall find to stand with Equity and good Conscience; and all such Acts, Order and Orders, Decrees, Judgements, and Proceedings, shall be entered and registered in a Book or Books to be kept for that Purpose by the Clerk or Clerks of the said Court, or his or their sufficient Deputy or Deputies; and shall be observed,

performed, and kept in all Parts, as well by the Plaintiffs as by the Debtors or Defendants respectively.

Commissioners to administer Oaths.

And, for the better Discovery of the Truth, and the more solemn Determination of Matters and Causes which shall be brought and depending in the said Court intended to be established by this Act; be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Commissioners for the time being, or any Three or more of them, to administer an Oath to the Plaintiff or Plaintiffs, Defendant or Defendants, and to such Witness or Witnesses as shall be produced by each Party, and also to all or any the Officers of the said Court, and to all other Persons whatsoever, for or concerning any Business relating thereto, if the said Commissioners, or any Three or more of them, shall think it meet.

Penalty on insulting the Commissioners,

And, for the more effectual Establishment of the said Court, and that the Commissioners may be vested with a proper Authority, and be free and exempt from Insult and Abuse; be it further enacted by the Authority aforesaid, That if any Person or Persons shall contemptuously or 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 summoning Officer 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, or County of Westmorland; and upon the Insult proved, 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 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 whereon 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.

For being guilty of Perjury.

And be it further enacted by the Authority aforesaid, That in case any Person or Persons shall make Oath or give Evidence in any Cause depending in the said Court of Requests, whereby he, she, or they, do or shall commit any wilful or corrupt Perjury, and shall thereof be duly convicted according to Law, then every such Person or Persons, convicted of wilful and corrupt Perjury as aforesaid, shall incur and suffer the like Pains and Penalties to which any other Person or Persons convicted of wilful and corrupt Perjury is and are liable by the Laws and Statutes of this Realm.

Commissioners to take an Oath.

And be it further enacted by the Authority aforesaid, That no Person or Persons shall be capable of acting as a Commissioner or Commissioners in the Execution of the Powers given by this Act, until such Time as he or they shall have respectively taken an Oath to the Effect following;

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 passed in the Fourth Year of the Reign of His Majesty King *George* the Third, intituled, *An Act for the more easy and speedy Recovery of small Debts in the Town and Parish of* Kirkby in Kendal, *in the County of* Westmorland, without Favour or Affection to either Party.

So help me God.

Which Oath the said Clerk or Clerks for the time being, his or their Deputy or Deputies, is or are hereby impowered and required to administer in open Court; a Memorial whereof shall be entered in the Register of the said Court.

Fees to be taken.

And be it further enacted by the Authority aforesaid, That the several Fees herein after limited, appointed, specified, and expressed, and no other Fee or Fees, shall or may be taken for the respective Services of the said Clerks, Officers, or Ministers of the said Court of Requests; that is to say,

For

	£.	s.	d.
For iſſuing out every Summons, to the Clerk	0	0	4
To the Officer, for Service	0	0	6
For the calling every Defendant before the Court, to the Clerk	0	0	2
For every Hearing, to the Clerk	0	0	6
For every Order upon Hearing, and Entry thereof, to the Clerk	0	0	8
To the Officer	0	0	3
For an Execution, to the Clerk	0	0	8
To the Officer, for Service	0	1	0
For paying Money into Court, to the Clerk	0	0	6
For every Perſon committed for inſulting the Court, to the Clerk	0	0	6
To the Officer	0	0	6
For acknowledging Satisfaction in full, to the Clerk	0	0	6
For every Search, to the Clerk	0	0	2
For a Nonſuit on the Plaintiff's not appearing, to the Clerk	0	0	4
To every Attorney retained by Plaintiff or Defendant	0	0	6
To every Attorney appearing for Plaintiff or Defendant, in Court,	0	1	0

A Table of which Fees ſhall be hung up by the Clerk or Clerks of the ſaid Court in ſome publick or moſt conſpicuous Part or Room of the Town's Hall within the ſaid Town of Kirkby in Kendal, or other Place where the ſaid Commiſſioners ſhall meet for the Purpoſes aforeſaid, to the End that all Perſons may, at all Times, ſee and read the ſame.

5 *l.* Penalty on demanding greater Fees.

And be it further enacted by the Authority aforeſaid, That if the ſaid Clerk or Clerks, his or their Deputy or Deputies, or any other Officer, Perſon or Perſons to be employed by virtue of this Act, ſhall take or demand any greater or other Fee or Fees than as above mentioned, that then and upon Complaint made to the ſaid Commiſſioners, ſitting in Court, of the ſaid Offence or Offences, ſuch Complaint being duly proved, upon the Oath of One or more credible Witneſs or Witneſſes againſt him or them ſo offending as aforeſaid, the ſaid Commiſſioners, or a Majority of them, then ſitting, ſhall proceed to puniſh ſuch Perſon or Perſons ſo offending as aforeſaid, by Fine, not exceeding the Sum of Five Pounds

Pounds for any Offence, to be levied by Distress and Sale of the Offenders 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 the said Distress and Sale are deducted.

Debts excepted.

Provided always, That this Act, or any thing herein contained, shall not extend to any Debt or Detinue for any Rent upon any Lease of any Lands, Tenements, or Hereditaments, or any other real Contract where the Freehold doth come in Question, nor to any Debt which shall arise by reason of any Cause concerning Testaments or Matrimony, or any Thing concerning or properly belonging to the Ecclesiastical Court, nor to any Matter, Cause, or Thing within the Office, Cognizance, or Commission of a Justice of the Peace; albeit the Debt, Value, or Damages, shall be under the Sum of Forty Shillings; any thing herein before contained to the contrary notwithstanding.

Plaintiffs not appearing, &c. Commissioners may award Costs to Defendants.

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.

If Debtors refuse to appear, Commissioners may hear and determine the Cause.

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, that 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 upon Oath made 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, and to oblige the Debtor or Debtors 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.

And be it further enacted by the Authority aforesaid, That all such Fine or Fines as are directed to be imposed, paid, or levied by virtue of this Act, shall be laid out, disposed of, or applied, to such Use or Uses as the Commissioners for the time being, or the Majority of them, shall direct and appoint. Application of Penalties.

And be it further enacted by the Authority aforesaid, That in case Three or more of the Commissioners appointed or to be appointed by virtue of this Act, shall neglect or refuse to assemble on any of the Days appointed for holding the said Court, it shall and may be lawful for the Clerk or Clerks of the said Court for the time being, to adjourn the said Court to some other convenient Opportunity, within One Week from the Time in which the said Court ought to have been held; and in the mean Time, by Direction of One or more Justice or Justices of the Peace residing within the said Town and Parish, under his and their Hands and Seals, to warn the said Commissioners, or Three or more of them, to appear on the Day so fixed by the said Clerk or Clerks; which said Commissioners and every of them, so warned or summoned as aforesaid (and at the Time of such Summons or Notice, residing within the said Town and Parish of Kirkby in Kendal) neglecting or refusing to appear on the Day appointed by the Clerk or Clerks of the said Court as aforesaid, shall lose and forfeit the Sum of Five Shillings, which, on Nonpayment, shall be levied by Distress and Sale of the Offenders Goods and Chattles, by virtue of a Warrant or Warrants under the Hands and Seals of One or more Justice or Justices of the Peace for the said Town or County of Westmorland, such Justice or Justices not being a Commissioner or Commissioners of the said Court; which said Fine or Fines shall be laid out, disposed of, and applied, as is herein before directed by this Act. Clerk to adjourn the Court.

And be it further enacted by the Authority aforesaid, That no Action or Suit for any Debt, not amounting to 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 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. Debts recoverable in this Court, not to be sued for in any other Court.

And be it further enacted by the Authority aforesaid, That no Order, Decree, or other Proceedings of the said Commissioners in the said Court of Requests, Proceedings not removeable by *Certiorari*.

3

queſts, ſhall be removed or removeable by Certiorari, or any other Writ or Proceſs whatſoever, into any of His Majeſty's Courts of Record at Weſtminſter; and in caſe any Perſon or Perſons ſhall be aggrieved by any Order, Decree, Determination, or Proceeding of the ſaid Commiſſioners in the ſaid Court of Requeſts, contrary to the true Intent and Meaning of this Act, or any of the Clerk or Clerks, Officer or Officers thereto belonging, ſuch Perſon or Perſons aggrieved as aforeſaid, ſhall and may recover full Satisfaction for the ſpecial Damage in an Action upon the Caſe.

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, then, and in ſuch Caſe, ſuch Action and Suit ſhall be brought and commenced within Three Calendar Months next after the Fact committed, and not afterwards; and the Defendant or Defendants in ſuch Action or General Iſſue. 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 the Plaintiff or Plaintiffs ſhall become Nonſuited, or diſcontinue his or their Action or Actions, Suit or Suits; or if, upon Verdict or Demurrer, Judgement ſhall be given againſt the Plaintiff or Plaintiffs, the Defendant or Defendants Treble Coſts. ſhall and may recover Treble Coſts, and have ſuch Remedy for the ſame as any Defendant or Defendants hath or have in any other Caſes by Law.

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 all other Perſons whatſoever, without ſpecially pleading the ſame.

b

FINIS.