Anno ſexto

Georgii III. Regis.

CAP. XX.

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

WHEREAS within the Town and Borough of Derby, in the County of Derby, and the Liberties thereof, there are ſeveral conſiderable Manufactures, as Throwing of Silk, Wool-combing, and Frame-work Knitting, which employ great Numbers of People who contract many ſmall Debts, which, in the Whole, amount yearly to a great Sum of Money; and, although they are well able, refuſe to pay ſuch Debts, preſuming on the Difficulties their Creditors lie under by the Expence they are unavoidably put to, and the Delays they meet with in ſuing for the ſame: And whereas a more eaſy and ſpeedy Method of recovering ſmall Debts, within the ſaid Borough and Liberties thereof, would tend to improve the Trade thereof, and to ſupport uſeful Credit therein; Preamble.

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therein; 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 Authority of the same, That Samuel Crompton, Hugh Bateman, John Gisborne, Thomas Coke, Thomas Bainbrigge, William Evans Mayor, Thomas Borrow Recorder, Joshua Crompton, William Forrester, Henry Thornhill, Nicholas Thornhill, Phillip Barnes, Francis Ashby, Francis Rivett, Thomas Mechlin, George Mellor, Esquires; the Reverend William Chambers D. D. the Reverend Joshua Winter, John Seal, Henry Offley Wright, Thomas Manlove, Brereton, Charles Hope, and John Bakewell, Clerks; William Hope, Snowden White, William Butter, Henry Tatum, Doctors of Physick; Thomas Allsop, Samuel Allsop, William Allsop, George Alt, Joseph Bakewell, Thomas Bennett, Thomas Bennett junior, John Bingham, Joseph Bingham, John Bingham junior, John Bloodworth, George Brentnall, John Brentnall, Thomas Brentnall, Theophilus Brown, Thomas Brown, John Bruckfield, James Butterfield, John Canterel Apothecary, William Chase, Richard Coke, White Cook, John Cross, Thomas Duesberry, Thomas Eaton, William Edwards, Thomas Eley, Thomas Evans, William Evans junior, John Evatt, Henry Flint, Gilbert Fox, Samuel Fox, Samuel Fox Bookseller, Francis Fox, Daniel Glossop, Robert Grayson, John Harrison Surgeon, Samuel Haslam, John Heaford, John Heath, Christopher Heath, John Homfray, John Hope junior, Robert Hope, Matthew How Hatter, Francis Hurd, Edward Holingshead, Richard Johnson, Thomas Johnson, Thomas Johnson of The Morlidge, George Killer, Marshall Killer, William Leaper, Thomas Low, Thomas Mather, Ralph Melland, John Meynell Surgeon, Francis Meynell, Fairfax Moresby, Richard Noton, William Partridge, James Phillips, George Richardson, Jeremiah Roe, George Roe, John Roe Maltster, William Sale, Thomas Saxelby, Joshua Simmonds, Joseph Sleath, William Leaper Smith, Thomas Smith Painter, Thomas Stamford, Anthony Stephenson, Jedediah Strutt, Joseph Tatlow, William Tatlow, James Tomlinson, Samuel Trimmer, Joseph Trimmer, John Turner, Richard Ward, Richard Ward junior, John Webster, John Whitehurst, Samuel Wild, Samuel Willot, Robert Winfield, William Woolat, Richard Wright, Richard Wright junior, Surgeon, shall be, and are hereby declared, constituted, and appointed,

Commissioners,

appointed, Commiſſioners to hear and determine all ſuch Matters of Debt as are herein after-mentioned; and ſuch Commiſſioners, and their Succeſſors, are hereby conſtituted a Court of Juſtice, by the Name of The Court of Requeſts for the Town and Borough of *Derby*, and the Liberties thereof; and they the ſaid Commiſſioners, or any Three or more of them, ſhall, and are hereby authorized, impowered, and required, to meet, aſſemble, and hold the ſaid Court on every Tueſday Three Weeks, or oftener, if there ſhall be Occaſion, in the Town Hall within the ſaid Town and Borough, or ſome convenient Place to be appointed by the major Part of the ſaid Commiſſioners as ſhall be preſent at any ſuch Meeting; and the Firſt Meeting of the ſaid Commiſſioners ſhall be held on the Tueſday Three Weeks next after the paſſing of this Act. conſtituted a Court.

And be it enacted by the Authority aforeſaid, That the ſaid Commiſſioners ſo named and appointed, and their Succeſſors, to be choſen as herein after is mentioned, or any Three or more of them, from time to time aſſembled as aforeſaid, ſhall have Power and Authority, by virtue of this Act, to hear and determine all ſuch Cauſes as hereafter are mentioned, and to give ſuch Judgements, and make ſuch Orders and Decrees therein, and to award ſuch Execution thereupon, with Coſts, both againſt the Bodies, and the Goods and Chattles, of all and every the Perſon and Perſons againſt whom they ſhall give or make any ſuch Judgement, Order, or Decree, as to them ſhall ſeem juſt, and moſt agreeable to Equity and good Conſcience; and if the Commiſſioners ſo aſſembled ſhall happen to be equally divided upon any Queſtion that may happen to come before them, the Commiſſioner preſent who ſtands firſt in the Liſt of Commiſſioners, to be hung up in the Court-houſe, or Place where they ſhall meet, ſhall have the caſting Vote. Their Power.

And be it further enacted by the Authority aforeſaid, That, from time to time, as often as it ſhall be neceſſary, either by the Death of any of the ſaid Commiſſioners herein before particularly named, or of any or either of their Succeſſors, to be choſen in Manner herein after mentioned, or by his or their refuſing to act therein, it ſhall and may be lawful to and for the Commiſſioners hereby appointed, and their Succeſſors, or any Nine of them, to meet and aſſemble together, within the Space of One Year next after ſuch Death or Refuſal to act, and elect and appoint, under their Hands and Seals, One or more Commiſſioner or Commiſſioners in the Stead and Place of ſuch Commiſſioner or Commiſ- Election of new Commiſſioners.

sioners so dying or refusing to act; and every such Commissioner, so elected and appointed, shall be, and is hereby, enabled to act in the Execution of the Powers granted to the Commissioners hereby appointed, as fully and effectually, to all Intents and Purposes, as if he had been particularly named herein.

Clerk and Serjeants appointed.

And be it enacted by the Authority aforesaid, That William Merrill Locket shall be, and is hereby, constituted and appointed Clerk of the said Court of Requests; and that Henry Radford and Robert Broughton shall be, and are hereby, constituted and appointed Serjeants of the said Court of Requests; who shall continue Clerk and Serjeants of the said Court as long as he or they shall behave himself or themselves well in their respective Offices.

No Commissioner to hold any Place of Profit.

Provided always, That no Commissioner shall be capable of holding the Office of Clerk, or any other Place of Profit belonging to the said Court.

Election of new Clerks and Serjeants.

And be it further enacted by the Authority aforesaid, That whenever it shall happen that the Place of Clerk or Serjeant shall become vacant, either through Misbehaviour, Death, or Resignation, or Incapacity, the Commissioners for the time being shall meet at some convenient Place within Six Days after such Vacancy shall happen; and a Majority of such Commissioners so met, not being less than Ten in Number, are hereby authorized and required, by Ballot, to choose and appoint, under their Hands and Seals, another fit and proper Person to be Clerk or Serjeant to the said Court during his good Behaviour.

Clerks to fix up Lists of Commissioners in the Court-house,

And be it further enacted by the Authority aforesaid, That the Clerk herein before named and chosen, and his Successors, so, from time to time, to be chosen and appointed, shall make, and cause to be fixed up in some convenient Part of the said Court-house, a fair and complete List of the Commissioners named and appointed, or hereafter to be elected and appointed, as aforesaid;

to issue Summonses, and register Orders.

and shall also and are hereby impowered and required, to issue out all Summonses, Attachments, Warrants, and Precepts, and to register and enter, or cause to be entered and registered, all the Orders, Decrees, and Judgements, and other Acts and Proceedings of the said Court, in proper Books to be provided by them,

Serjeants to serve Precepts.

and kept for that Purpose; and that the Serjeants herein before-named and chosen, or hereafter, from time to time, to be chosen and appointed as aforesaid, shall and are hereby impowered and required to serve and execute all such Summonses, Orders, Attachments, Warrants, Executions,

Executions, and Precepts, and to do and perform such other Acts, Matters, and Things, as are herein directed and appointed to be done by them.

Power given to sue for any Debt under 40s.

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 all and every Person and Persons whatsoever who now hath or have, or hereafter shall have, any Debt or Debts, not exceeding the Sum of Forty Shillings due or owing unto him, her, or them, in his, her, or their own Right, or as Executor, Administrator, Guardian, or Trustee, by or from any other Person or Persons whatsoever inhabiting or residing within the Town and Borough of Derby, and Liberties thereof, or trading and dealing, or seeking a Livelihood therein, to apply to the Clerk of the Court for the time being, who shall immediately make out and deliver a Summons in Writing under his Hand, directed to such Debtor or Debtors, expressing the Sum demanded of him, her, or them, and the Name or Names of the Party or Parties demanding the same, thereby requiring and commanding such Debtor or Debtors to appear at a certain Time and Place before the Commissioners of the said Court, to answer such Demand; and the Serjeants 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 or Place of Abode, Lodging, Shop, Shed, Stall, Stand, or other Place of dealing or working of such Debtor or Debtors, within the said Town and Borough of Derby, and Liberties aforesaid; and the said Commissioners, or any Three or more of them, shall, upon Proof made of the Service of such Summons, have full Power and Authority, by virtue of this Act, to make due Inquiry concerning such Demands, and pronounce and give such final Sentence and Judgement, and make such Orders and Decrees therein, as to them shall seem most just and equitable.

Method of Service:

On Proof thereof, Commissioners to hear and determine.

And, for the better Discovery of the Truth, and for the more solemn Determination of all the Causes and Matters which shall be depending in the said Court; be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Commissioners, or any Three or more of them, assembled in Court, and they are hereby impowered to administer an Oath to the Plaintiff or Defendant, and to such Witness or Witnesses as shall be produced by either Party, and also to the Officers of the Court, and to any Person or Persons whatsoever, whose Evidence shall to the said

Commissioners may administer Oaths.

said Commissioners, or to the major Part of them, appear necessary.

On Non-appearance of Defendant, to proceed *ex parte*.

And be it further enacted by the Authority aforesaid, That if such Debtor or Debtors, who shall have been duly summoned as aforesaid, shall, without some good Cause to be allowed by the Commissioners, refuse or neglect to appear in 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, upon Proof being made upon Oath of the Service of the said Summons in manner before directed, to proceed to hear the Cause on the Part of the Plaintiff or Plaintiffs only, and to make such Order, Decree, or Judgement therein, and award such Costs of Suit, as to them shall seem meet.

On Non-appearance or Nonsuit of the Plaintiff, to award Costs.

And be it further enacted by the Authority aforesaid, That if upon the Day of the Return, 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 Debt or 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, to award to the Defendant or Defendants reasonable Costs, and to order and compel 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 to be paid by the said Court.

Commissioners to award Execution.

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, to award Execution, either against the Body or Goods of the Party against whom such Order or Orders shall be made; and thereupon it shall and may be lawful to and for the Clerk of the said Court, at the Request of the Party prosecuting such Order or Decree, to issue a Precept under his Hand and Seal, to One of the Serjeants of the said Court, who, by virtue of any such Precept issued upon the Execution awarded against the Body of such Party, shall and may and is hereby impowered to take and apprehend such Party, being within the Town and Borough of Derby and Liberties aforesaid, and carry him, her, or them, to the Common Gaol or House of Correction within the said Town and Borough or Liberties thereof, there to remain until he, she, or they, shall

Party to be committed.

shall perform and obey such Order, Decree, or Judgement; so as no Person shall remain in Confinement upon any such Execution for any longer Space of Time than Three Months; and the said Serjeant, by virtue of any such Precept issued upon the 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 and Borough or Liberties thereof, such Sum and Sums of Money, and Costs, as shall be so ordered and decreed: And if the Party against whose Body or Goods any such Execution shall be awarded, and such Process shall issue thereupon, shall, by absconding, or by secreting, or removing his, her, or their Goods, or by any other Means, prevent or evade the Service and Effect of any such Execution; it shall and may be lawful to and for the said Commissioners, or any Three or more of them, upon due Proof thereof made to them by the Oath or Oaths of the Serjeant, or One or more credible Witness or Witnesses, at their Discretion, to award Execution either against the Body or Goods of such Party; and Process shall issue thereupon, and be executed by the Serjeant in Manner aforesaid, until the Plaintiff or Plaintiffs shall be fully paid and satisfied.

Debt, &c. to be levied by Distress and Sale.

Party absconding, or removing Goods,

Execution to issue.

And be it further enacted by the Authority aforesaid, That in case the said Commissioners shall at any Time, upon the Request and for the Ease and Convenience of the Defendant or Defendants, order and decree the Debt due to the Plaintiff or Plaintiffs, to be paid at several Payments; then, upon the first Default or Failure of any of the said Payments so ordered and decreed, the said Commissioners, or any Three or more of them, assembled in Court, shall and may, at the Instance of the Plaintiff or Plaintiffs, and upon due Proof of the said Default or Failure, award Execution for the whole Debt, or such Part thereof as shall then remain unpaid, together with such further Costs as to them shall seem reasonable, to be recovered by the same Process, and in like Manner, as is herein before provided for Recovery of the Debt and Costs first decreed; the former Order or Decree to the contrary thereof notwithstanding.

Debts may be paid at several Times:

Defendant liable on the first Failure to the whole Sum.

And be it further enacted by the Authority aforesaid, That upon every Precept to be issued upon any Execution awarded against the Body or Goods of any Person or Persons whatsoever, the Clerk of the said Court shall indorse and set down in Writing, the Sum or Sums of Money and Costs so ordered and decreed to be paid; and

Clerk to indorse the Debt and Costs recovered.

if the Party or Parties againſt whom ſuch Execution ſhall be awarded, ſhall, before any actual Sale of his, her, or their Goods, or before he, ſhe, or they, is or are taken and apprehended, or before the Expiration of the Term of his, her, or their Impriſonment, pay, or cauſe to be paid or tendered, to the Clerk of the Court who ſhall iſſue ſuch Precept, ſuch Sum or Sums of Money, and Coſts, together with One Shilling as a Reward for his Trouble in receiving and paying over ſuch Debt and Coſts to the Plaintiff or Plaintiffs, and entering Acknowledgment of Satisfaction, in the Books or Regiſter of the ſaid Court, for ſuch Debt and Coſts, and alſo the Sum of Two Shillings and Six Pence for Gaol Fees (in caſe ſuch Party or Parties ſhall have been committed to Priſon); then, and in any ſuch Caſe, the Execution ſhall be ſuperſeded, and the Body and Bodies or Goods of the ſaid Party or Parties ſhall be diſcharged and ſet at Liberty.

Execution may be ſuperſeded.

Serjeants ſuffering Defendants to eſcape, or Goods to be removed, to pay the Debt.

And be it further enacted by the Authority aforeſaid, That if the Serjeant of the ſaid Court, who ſhall be employed to ſerve or levy any Execution, ſhall, by wilful Connivance, or notorious Neglect, 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 in Court, upon Complaint, and due Proof thereof made 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 enforce the Payment thereof by the ſame Method and Means as are herein before provided for the Recovery of other Debts.

Commiſſioners 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, or, being One of the People called Quakers, a ſolemn Affirmation, to the following Effect; that is to ſay,

I *A. B.* do ſwear (or affirm) That I will faithfully, impartially, and honeſtly, according to the beſt of my Judgement, hear and determine all 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

Small Debts within the Town and Borough of *Derby*, and the Liberties thereof, without Favour or Affection, Prejudice or Malice, to either Party.

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

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 or Serjeants, for their ſeveral and reſpective Services in the Execution of this Act; that is to ſay, Fees to be taken.

	l.	s.	d.
For iſſuing every Summons, to the Clerk	0	0	6
For Service of every Summons, and attending the Court with Return, to the Serjeant	0	0	3
For entering Cauſe, to the Clerk	0	0	6
For every Hearing, to the Clerk	0	0	3
For every Order, to the Clerk	0	0	3
For Service of every Order againſt a Perſon not in Court, and attending with Return, to the Serjeants	0	0	6
For a Nonſuit on the Plaintiff's not appearing, to the Clerk	0	0	3
For an Attachment againſt the Defendant for not appearing, to the Clerk	0	0	3
For the Service thereof, to the Serjeant	0	1	0
For acknowledging Satisfaction thereof, to the Clerk	0	0	3
For an Execution, to the Clerk	0	0	6
For the Service thereof, to the Serjeant	0	1	0
For a Subpœna, to the Clerk	0	0	3
For the Service thereof, to the Serjeant	0	0	2
For paying Money into Court, to the Clerk	0	0	6
For every Search in the Book, to the Clerk	0	0	2

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-houſe or Place where the ſaid Commiſſioners ſhall meet, ſo that all Perſons concerned may ſee and read the ſame. Table of Fees to be hung up in the Court.

And be it further enacted by the Authority aforeſaid, That if the Clerk, or either of the Serjeants of the ſaid Penalty on taking greater Fees.

said Court for the time being, shall take or demand any greater or other Fees or Rewards than what are above mentioned, for his Services in the Execution of this Act; he shall, for every such Offence, forfeit and pay such Fine, not exceeding the Sum of Five Pounds, nor less than Forty Shillings, as the said Commissioners, or any Three or more of them, shall assess and impose, to be paid to the Mayor of the said Town and Borough for the time being, and by him applied to the Use of the Poor of the said Town and Borough and Liberties thereof, in such Manner as he shall judge proper.

Officers may be displaced.

And be it further enacted by the Authority aforesaid, That if such Clerk, or either of such Serjeants, shall be guilty of any notorious Misbehaviour, either by Neglect or Breach of Duty, or in frequently taking greater Fees than before mentioned, or otherwise, in the Discharge of their respective Offices, upon Complaint and due Proof thereof made upon Oath in open Court, the said Commissioners then sitting, are hereby directed and required to cause the whole Number of Commissioners to be summoned to meet at a convenient Time and Place; and the said Commissioners then present, not being less than Ten, shall and may examine and consider the Merits of such Complaint; and if it shall appear to such Commissioners, or the major Part of them, that the said Clerk or Serjeant hath been guilty of such Misbehaviour or Breach of Duty as aforesaid, in his Office, it shall and may be lawful to and for the said Commissioners, or the major Part of them, to dismiss or remove such Clerk or Serjeant from his said Office, and nominate and appoint another fit and proper Person to exercise the said Office of Clerk or Serjeant, in the Room and Place of him so dismissed and removed as aforesaid.

Commissioners or Clerks, when interested, not to act.

And be it further enacted by the Authority aforesaid, That if any or either 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 and determining the said Cause, or making any Order, Decree, or Judgement therein; but, after being heard in the said Cause, shall withdraw from the said Court until the same is finally determined; and if the Clerk or Serjeant 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 Serjeant shall not exercise his said Office in the said Cause, or any Thing relating thereto; but the said Commissioners, or any Three

Three or more of them, aſſembled at ſuch Court, ſhall and may depute and appoint another Perſon to exerciſe the Office of ſuch Clerk or Serjeant reſpectively, in all Things relative to ſuch Cauſe.

And, for the more effectual Eſtabliſhment of the ſaid Court of Requeſts, and for the better enforcing the Orders and Decrees from time to time to be made by the ſaid Commiſſioners, and that the ſaid Commiſſioners may be inveſted with proper Power and 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 affront, inſult, or abuſe, all or any of the Commiſſioners or the Officer or Officers of the ſaid Court for the time being, during their ſitting in the ſaid Court, or in going to, or returning from, the ſame, or ſhall interrupt the Proceedings of the ſaid Court; it ſhall and may be lawful to and for the Serjeants of the ſaid Court, by Order of the ſaid Commiſſioners then ſitting, or any Three or more of them, to take ſuch Perſon or Perſons ſo offending as aforeſaid, before the Mayor, or any One or more of His Majeſty's Juſtices of the Peace for the ſaid Town and Borough and Liberties thereof; and upon the Fact alledged being proved by the Oath of One or more credible Witneſs or Witneſſes, the ſaid Juſtice or Juſtices are hereby impowered and directed to puniſh ſuch Perſon or Perſons ſo offending as aforeſaid, by Fine not exceeding Twenty Shillings, nor leſs than Ten Shillings, which ſhall be immediately paid into the Hands of the ſaid Mayor, Juſtice or Juſtices, before whom ſuch Offender or Offenders ſhall be convicted, and be paid and applied in like Manner as the Fines herein before mentioned are directed to be applied; and if the ſaid Offender or Offenders ſhall not pay the ſaid Fine in Manner aforeſaid, it ſhall and may be lawful for the ſaid Mayor, Juſtice or Juſtices, by Warrant under his or their Hand and Seal, or Hands and Seals, to commit ſuch Offender or Offenders to the Common Gaol or Houſe of Correction, within the ſaid Town and Borough and Liberties thereof, there to remain for any Space of Time not exceeding Two Calendar Months, or until he, ſhe, or they, ſhall have paid the ſaid Fine. Penalty on Perſons inſulting the Court.

And be it further enacted by the Authority aforeſaid, That the Clerk of the ſaid Court ſhall fix, or cauſe to be fixed or ſtuck up, in the moſt publick Part of the ſaid Court-houſe, or other Place where the ſaid Commiſſioners ſhall meet, a true Copy of the preceding Clauſe Copy of the preceding Clauſe to be ſtuck up in the Court-houſe.

of this Act, to the End that no Person or Persons shall or may plead Ignorance thereof.

Gaoler, &c. to receive Persons committed.

And be it further enacted by the Authority aforesaid, That the respective Keepers, for the time being, of the respective Common Gaols or Houses of Correction within the said Town and Borough of Derby and Liberties thereof, shall and may, and they are hereby required and commanded to receive and take into their Custody respectively all and every Person or Persons who shall be committed, or ordered to stand committed, by any Three or more of the said Commissioners present in Court, or by virtue of any Warrant, Attachment, Execution, or other Process, issuing out of the said Court of Requests: And in case the Keepers of the said Gaols or Houses of Correction respectively, or either of them, shall neglect or refuse to receive and take into his or their Custody any Person or Persons committed by virtue of this Act; or before the Expiration of the Time for which any Person or Persons shall be so committed to his or their Custody, shall discharge such Person or Persons; or wilfully permit and suffer such Person or Persons to go at large, without a Warrant, Order, or Authority, for that Purpose in Writing, signed in Court by Three or more of the said Commissioners; such Keepers, so respectively offending in either of the said Cases, and being thereof convicted before the Mayor, or any One or more of His Majesty's Justices of the Peace for the said Town, and Borough, and Liberties thereof, upon the Oath of One or more credible Witness or Witnesses, or on their 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 Mayor, Justice or Justices; and such Sum shall be immediately paid, by the Person so offending, into the Hands of the Mayor, Justice or Justices, before whom any such Offender shall be convicted; or, in Default thereof, shall and may be levied by Distress and Sale of the Offender's Goods and Chattles, by Warrant under the Hand and Seal, or Hands and Seals, of such Mayor, Justice or Justices: And which Sum, when paid or levied, shall be applied in like Manner as the Fines herein before-mentioned are directed to be paid and applied.

Penalty on refusing, or permitting to escape:

Application of the Penalty.

No Action for Debt recoverable by this Act to be brought in any other Court.

And be it further enacted by the Authority aforesaid, That no Action or Suit for any Debt not amounting to the Sum of Forty Shillings, and recoverable by virtue of this Act in the said Court of Requests, shall be brought against any Person or Persons residing or inhabiting

biting within the Jurisdiction thereof, in any of the King's Courts at Westminster, or any other Courts whatsoever, or elsewhere out of the said Court of Requests; and that if any such Action or Suit shall be brought and prosecuted, and it shall appear to the Judge or Judges of the said Court where such Action or Suit shall be brought, that the Debt to be recovered by the Plaintiff or Plaintiffs in such Action or Suit doth not amount to the Sum of Forty Shillings; and the Defendant or Defendants in such Action or Suit shall prove, by sufficient Testimony to be allowed by such Judge or Judges, that, at the Time of commencing such Action or Suit, the Defendant or Defendants was or were liable to be summoned before the said Court of Requests for such Debt; then, and in every such Case, the said Judge or Judges shall not allow to the said Plaintiff or Plaintiffs any Costs of Suit, but shall award that the said Plaintiff or Plaintiffs shall pay so much ordinary Costs to the Defendant or Defendants, as such Defendant or Defendants shall prove before the said Judge or Judges, or the proper Officer of the Court wherein such Action shall be brought, it hath truly cost him, her, or them, in the Defence of such Action or Suit.

To what Debts this Act shall not extend.

Provided always, and be it further 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, or upon any other real Contract; nor to any Debt that shall arise upon or by reason of any Cause concerning any last Will or Testament, or Matrimony, or any thing properly belonging to the Ecclesiastical Courts; nor to any Debt for Money 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 hath not been a Contract, Acknowledgment, Undertaking, or Promise to pay, within Six Years before the taking out the Summons for the same, although such Debt shall be under the Value of Forty Shillings.

Penalty of Perjury.

And be it further enacted by the Authority aforesaid, That in case any Person or Persons, in making Oath or giving Evidence in any Cause or Matter whatsoever depending in the said Court of Requests, shall commit wilful and corrupt Perjury, and be thereof duly convicted according to Law, such Person or Persons shall incur and suffer the like Pains and Penalties as any other Person or Persons convicted of wilful and corrupt Perjury

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

No Attorney to act as an Advocate or Commissioner.

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 in Behalf of any Plaintiff or Defendant, or be permitted 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 the Keepers of the said Common Gaols or Houses 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.

Attorney not privileged.

And be it further enacted by the Authority aforesaid, That no Privilege, or pretended Privilege, shall be allowed to exempt any Person residing within the said Town and Borough, or Liberties aforesaid, and 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.

Witness not obeying a *Subpœna*, to be fined.

And be it further enacted by the Authority aforesaid, That in case any Person residing within the Town and Borough, or Liberties aforesaid, who shall be duly served with a Subpœna or Summons, to be issued out of the said Court of Requests, to give Evidence on the Behalf of any Plaintiff or Defendant, shall neglect or refuse to appear pursuant to such Subpœna or Summons, at the Time and Place therein mentioned, and due Proof shall be made of the Service of such Subpœna or Summons, and no Cause of Absence be shewn or assigned to the Satisfaction of the Commissioners present at the Court to which such Person shall be by such Subpœna or Summons required to appear, and Oath shall be made before the said Commissioners, by the Party at whose Instance and on whose Behalf such Subpœna or Summons issued, that the Person served therewith was a material Witness for such Party, it shall and may be lawful to and for the said Commissioners, or any Three or more of them, assembled in such Court, to impose and lay a Fine not exceeding Fifty Shillings, nor less than Ten Shillings, to be levied (if not immediately paid on Demand) 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, which Fine when paid or levied ſhall be paid over to the Party at whoſe Inſtance and on whoſe Behalf ſuch Subpœna or Summons iſſued.

Quakers Affirmation to be allowed.

Provided always, and be it further enacted by the Authority aforeſaid, That the Affirmation or Affirmations of the People called Quakers ſhall be allowed and taken in all Caſes where any Oath or Oaths is or are directed to be taken by this Act, inſtead of an Oath, and ſhall be adminiſtered by the ſame Perſons as ſuch Oath or Oaths is or are to be adminiſtered; and every Perſon making ſuch Affirmation, who ſhall be convicted of wilful falſe affirming, ſhall incur the ſame Penalties and Forfeitures as are inflicted and impoſed, by any Laws and Statutes of this Realm, upon Perſons convicted of wilful and corrupt Perjury.

Commiſſioners not to be ſerved with Proceſs for any Thing done in Execution of this Act, until Notice given:

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 on 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 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.

They may tender Amends.

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

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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, or shall find 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.

Plaintiffs not to recover unless Notice be proved.

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.

Commissioners may pay Money into Court.

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, 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.

What Evidence shall be allowed.

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 Three Calendar Months next after the Cause of Action shall arise, and not afterwards; and shall be laid in the County of Derby, and not elsewhere; and the Defendant or Defendants in such Action or Suit shall

General Issue.

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

come nonſuited, or diſcontinue ſuch Action or Suit, or if upon a Verdict or Demurrer, Judgement ſhall be given againſt the Plaintiff or Plaintiffs, the Defendant or Defendants ſhall and may recover Treble Coſts, and have ſuch Remedies for the ſame as any Defendant or Defendants can or may have in any other Caſes by Law. Treble Coſts.

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 whatſoever, without ſpecially pleading the ſame. Publick Act.

FINIS.