

ANNO SECUNDO

VICTORIÆ REGINÆ.

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be, shall be mentioned; and such Writ shall be issued in the first instance by the Prothonotary of the said Court of Pleas of *Durham*, or his Deputy, and shall be served in the Manner heretofore used in the County Palatine of *Durham* and *Sadberge*, and not elsewhere; and the Person serving the same shall and is hereby required, within Three Days after Service thereof, to indorse on the Writ the Day of the Month and Week of the Service thereof.

Mode of Appearance to serviceable Process.

II. And be it enacted, That the Mode of Appearance to every such Writ of Summons issued under the Authority of this Act shall be by delivering to the said Prothonotary or his Deputy a Memorandum in Writing, dated on the Day of Delivery thereof, according to the Form contained in the said Schedule, and marked No. 2.

Appearance may be enforced by a Writ of Distringas in case a Defendant cannot be served with the Writ of Summons.

III. And be it enacted, That in case it shall be made appear, by Affidavit to the Satisfaction of the said Court of Pleas at *Durham*, that any Defendant has not been personally served with any such Writ of Summons as herein-before mentioned, and has not, according to the Exigency of such Writ, appeared to the Action, and cannot be compelled so to do without some more efficient Process, then and in any such Case it shall be lawful for such Court, by Rule or Order, to order a Writ of Distringas to be issued, directed to the Sheriff of the said County of *Durham*, or to any other Officer to be named in such Rule or Order, to compel the Appearance of such Defendant, which Writ of Distringas shall be in the Form and with the Notice subscribed thereto mentioned in the said Schedule, and marked Number 3, which Writ of Distringas and Notice, or a Copy thereof, shall be served on such Defendant if he can be met with, or if not, shall be left at the Place where such Distringas shall be executed; and a true Copy of every such Writ and Notice shall be delivered together therewith to the Sheriff or other Officer to whom such Writ shall be directed; and every such Writ shall be made returnable on a Day certain to be named therein, not being less than Fifteen Days after the Teste thereof; and if such Writ of Distringas shall be returned Non est inventus and Nulla bona, and the Party issuing out such Writ of Distringas shall not intend to proceed to Outlawry or Waiver, according to the Authority herein-after given, and any Defendant against whom such Writ of Distringas issued shall not appear at or within Eight Days inclusive after the Return of such Writ of Distringas, and it shall be made appear, by Affidavit to the Satisfaction of the said Court, that due and proper Means were taken and used to serve and execute such Writ of Distringas, it shall be lawful for such Court to authorize the Party suing out such Writ of Distringas to enter an Appearance for such Defendant, and to proceed thereon to Judgment and Execution.

Proceedings to Outlawry.

IV. And be it enacted, That upon the Return of Non est inventus as to any Defendant against whom any Writ of Capias shall have been issued under and by virtue of an Act of Parliament made and passed in the First and Second Years of the Reign of Her present Majesty Queen *Victoria*, intituled *An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases; for extending the Remedies of Creditors against the Property of Debtors; and for amending*

1 & 2 Vict. c. 110.

amending the Laws for the Relief of Insolvent Debtors in England, and also upon the Return of Non est inventus and Nulla bona as to any Defendant against whom such Writ of Distringas as herein-before mentioned shall have issued, whether such Writ of Capias or Distringas shall have issued against such Defendant only, or against such Defendant and any other Person or Persons, it shall be lawful, until otherwise provided for, to proceed to outlaw or waive such Defendant by Writs of Exigi, Facias, and Proclamation, and otherwise, in such and in the same Manner as may now be lawfully done upon the Return of Non est inventus to a Pluries Writ of Capias ad respondendum issued after an original Writ: Provided always, that every such Writ of Exigent, Proclamation, and other Writ subsequent to the Writ of Capias or Distringas, shall be made returnable on a Day certain to be named therein; and every such first Writ of Exigent and Proclamation shall bear Teste on the Day of the Return of the Writ of Capias or Distringas; and every subsequent Writ of Exigent and Proclamation shall bear Teste on the Day of the Return of the next preceding Writ; and no such Writ of Capias or Distringas shall be sufficient for the Purpose of Outlawry or Waiver, if the same be returned within less than Fifteen Days after the Delivery thereof to the Sheriff or other Officer to whom the same shall be directed.

Proceedings to Outlawry may be had after Judgment given under the Authority of this Act.

V. And be it enacted, That after Judgment given in any Action commenced by Writ of Summons under the Authority of this Act, Proceedings to Outlawry or Waiver may be had and taken, and Judgment of Outlawry or Waiver given, in such Manner and in such Cases as may now be lawfully done after Judgment in an Action commenced by original Writ: Provided always, that every Outlawry or Waiver had under the Authority of this Act shall and may be vacated or set aside by Writ of Error or Motion, in like Manner as Outlawry or Waiver founded on an original Writ may now be vacated or set aside.

Duration of Writs of Summons.

VI. And be it enacted, That no Writ of Summons issued by Authority of this Act shall be in force for more than Four Calendar Months from the Day of the Date thereof, including the Day of such Date; but every Writ of Summons may be continued by Alias and Pluries, as the Case may require, if any Defendant therein named may not have been served therewith: Provided always, that no first Writ shall be available to prevent the Operation of any Statute whereby the Time for the Commencement of the Action may be limited, unless the Defendant shall be served therewith, or Proceedings to or towards Outlawry shall be had thereupon, or unless such Writ, and every Writ (if any) issued in continuation of a preceding Writ, shall be returned Non est inventus, and entered of Record within One Calendar Month next after the Expiration thereof, including the Day of such Expiration, and unless every Writ issued in continuation of a preceding Writ shall be issued within One such Calendar Month after the Expiration of the preceding Writ, and shall contain a Memorandum indorsed thereon, or subscribed thereto, specifying the Day of the Date of the first Writ, by the Plaintiff or his Attorney suing out the same.

Provision as to the Statute of Limitations.

VII. And

Proceedings on Writ of Summons served or executed at certain Times. Proviso for Sunday, &c.

VII. And be it enacted, That when any Writ of Summons shall be served or executed all necessary Proceedings to Judgment and Execution may be had thereon without Delay at the Expiration of Eight Days from the Service or Execution thereof; provided always, that if the last of such Eight Days shall in any Case happen to fall on a *Sunday*, *Christmas Day*, *Good Friday*, or any Day appointed for a Public Fast or Thanksgiving, in any of such Cases the following Day shall be considered as the last of such Eight Days.

Date and Teste of Writs. Indorsement of the Name, &c. of the Attorney or Party suing.

VIII. And be it enacted, That every Writ of Summons shall bear Date on the Day on which the same shall be issued; and every Writ of Summons, Distringas, and all other Writs hereafter to be issued out of the said Court of Pleas at *Durham* shall be tested in the Name of the Senior Judge, or in case of the Death of such Senior Judge, then in the Name of the Junior Judge, of the then last Assize of and for the said County; and that the Name or Firm, and the Place of Business or Residence, of the Attorney or Attornies issuing such Writs shall be indorsed thereon; and where such Attorney or Attornies shall be Agents only, then there shall be further indorsed thereon the Name or Firm and Place of Business or Residence of the Principal Attorney or Attornies; but in case no Attorney or Attornies shall be employed for that Purpose, then a Memorandum shall be indorsed thereon, expressing that the same has been sued out by the Plaintiff in person, mentioning the City, Town, or Parish, and also the Name of the Hamlet, Street, and Number of the House of such Plaintiff's Residence, if any such there be.

Service of Writ of Summons on Corporations and on Inhabitants of Hundreds and Towns.

IX. And be it enacted, That every such Writ of Summons issued against a Corporation Aggregate may be served on the Mayor or other Head Officer, or on the Town Clerk, Clerk, Treasurer, or Secretary, of such Corporation; and every such Writ issued against the Inhabitants of a Hundred or other like District may be served on the High Constable thereof, or any one of the High Constables thereof; and every such Writ issued against the Inhabitants of the County of *Durham*, or the Inhabitants of any Franchise, Liberty, Town, or Place, not being Part of a Hundred or other like District, on some Peace Officer thereof.

Proceedings in default of Appearance.

X. And be it enacted, That all such Proceedings as are mentioned in any Writ, Notice, or Warning to be issued as aforesaid under this Act shall and may be had and taken in default of a Defendant's Appearance.

Proviso for Persons privileged from Outlawry.

XI. Provided always, and be it enacted, That nothing in this Act contained shall subject any Person to Outlawry or Waiver who, by reason of any Privilege, Usage, or otherwise, may now by Law be exempt therefrom, or shall extend, save and except as herein-after is provided for, to any Cause removed into the said Court by Writ of Pone loquelam, Recordari facias loquelam, or otherwise.

Writs for Commencement of per-

XII. And be it enacted, That from the Time when this Act shall commence and take effect the Writs herein-before authorized shall be the

the only Writs for the Commencement of personal Actions in the said Court by serviceable Process against the Person in the Cases to which such Writs are applicable. sonal Actions.

XIII. And be it enacted, That it shall be lawful for the Parties in any Action depending or to be depending in the said Court of Pleas at *Durham*, after Issue joined, by Consent and by Order of the said Court, to state the Facts of the same in the Form of a Special Case for the Opinion of One of the Superior Courts of Common Law at *Westminster*, and to agree that a Judgment shall be entered for the Plaintiff or Defendant, by Confession or Nolle prosequi, immediately after the Decision of the Case, or otherwise, as the Court before whom such Case shall be heard may think fit, and Judgment shall be entered accordingly. Power to state a Special Case without proceeding to Trial.

XIV. And be it enacted, That it shall and may be lawful for the said Court of Pleas at *Durham*, if the said Court shall think fit, on any Application being made to the said Court in any Action depending in the said Court on any Question involving a Question of Law or Fact, to grant a Rule to show Cause before any One of the Judges of any One of the Superior Courts of Common Law at *Westminster*, which Judge is hereby authorized and empowered to proceed to hear and determine the Merits of all such Rules, and to make such Orders thereupon, as the said Judge shall think proper. Rule Nisi may be made to show Cause before One of the Judges of the Superior Courts at Westminster.

XV. And be it enacted, That it shall and may be lawful for the Justices of the said Court of Pleas at *Durham* for the Time being from Time to Time to make such Orders, Rules, and Regulations for altering and regulating the Mode and Time of pleading in that Court, and for altering the Mode of entering and transcribing Pleadings, Judgments, and other Proceedings in Actions at Law therein, and touching the voluntary Admission, upon any Application for that Purpose, at a reasonable Time before the Trial of any Action, of one of the Parties to the other, of all such written or printed Documents or Copies of Documents as are intended to be offered in Evidence on the said Trial by the Party requiring such Admission, and touching the Inspection thereof before such Admission is made, and touching the Costs which may be incurred by the Proof of such Documents or Copies on the Trial of the Cause, in case of the omitting to apply for such Admission, or the not producing of such Documents or Copies for the Purpose of obtaining Admission thereof, or of the Refusal to make such Admission, as the Case may be, as to the Judge before whom the Cause may be tried shall seem meet. Justices to have Power to make Rules and Regulations for altering and regulating the Mode and Time of pleading and transcribing Records, and touching the Admission of Documents.

XVI. And be it enacted, That all Writs hereafter to be issued by the Court of Pleas at *Durham* under and by virtue of the Statute passed in the Session of Parliament held in the Eighth and Ninth Years of the Reign of King *William* the Third, intituled *An Act for the better preventing frivolous and vexatious Suits*, shall, unless the said Court shall otherwise order, direct the Sheriff of the said County of *Durham* to summon a Jury to appear before him instead of the Writs of Inquiry under the Statute 8 & 9 W. 3. c. 11. to be executed before the Sheriff, unless otherwise ordered.

Justices or Justice of Assize of and for the said County, to inquire of the Truth of the Breaches suggested, and assess the Damages that the Plaintiff shall have sustained thereby, and shall command the said Sheriff to make Return thereof to the said Court on a Day certain in such Writ to be mentioned; and such Proceedings shall be had after the Return of such Writ as are in the said Statute in that Behalf mentioned, in like Manner as if such Writ had been executed before a Justice of Assize or Nisi Prius.

Other Writs of Inquiry to be returnable on a Day certain.

XVII. And be it enacted, That every other Writ of Inquiry to be issued by the said Court of Pleas at *Durham* shall be made returnable on any Day certain to be named in such Writ.

Power to direct Issues joined in certain Actions to be tried before the Sheriff or any Judge.

XVIII. And be it enacted, That in any Action depending in the said Court of Pleas at *Durham* for any Debt or Demand in which the Sum sought to be recovered and indorsed on the Writ of Summons shall not exceed Twenty Pounds, it shall be lawful for the said Court, or any Judge of any of Her Majesty's Superior Courts of Common Law at *Westminster*, if such Court or Judge shall be satisfied that the Trial of the said Action will not involve any difficult Question either of Law or Fact, and such Court or Judge shall think fit so to do, to order and direct that the Issue or Issues joined shall be tried before the Sheriff of the said County Palatine of *Durham* or any Judge of any Court of Record for the Recovery of Debt in such County, and for that Purpose a Writ shall issue, directed to the said Sheriff or Judge, commanding him to try such Issue or Issues by a Jury to be summoned by him, and to return such Writ, with the Finding of the Jury thereon indorsed, at a Day certain to be named in such Writ, and thereupon such Sheriff or Judge shall summon a Jury, and shall proceed to try such Issue or Issues.

Upon the Return of a Writ of Inquiry or a Writ of Trial of Issues, Judgment may be signed, unless, &c.

XIX. And be it enacted, That at the Return of every Writ of Inquiry, or Writ for the Trial of such Issue or Issues as aforesaid, Costs shall be taxed, Judgment signed, and Execution issued forthwith, unless the Sheriff or his Deputy before whom such Writ of Inquiry may be executed, or such Sheriff, Deputy, or Judge before whom such Trial shall be had, shall certify under his Hand upon such Writ that Judgment ought not to be signed until the Defendant shall have had an Opportunity to apply to the said Court of Pleas at *Durham* for a new Inquiry or Trial, or the said Court shall think fit to order that Judgment or Execution shall be stayed till a Day to be named in such Order; and the Verdict of such Jury on the Trial of such Issues or Issue shall be as valid and of the like Force as a Verdict of a Jury at the Assizes, and the Sheriff or his Deputy or Judge presiding at the Trial of such Issue or Issues shall have the like Powers with respect to the Amendment on such Trial as are given to Judges at Nisi Prius by an Act passed in the Third and Fourth Years of the Reign of King *William* the Fourth, intituled *An Act for the further Amendment of the Law and the better Advancement of Justice.*

3 & 4 W. 4. c. 42.

Judgment may be vacated, Ex-

XX. Provided always, and be it enacted, That, notwithstanding any Judgment signed or Execution issued as aforesaid by virtue of this

Act,

Act, it shall be lawful for the said Court of Pleas at *Durham*, or any Judge of any of Her Majesty's Superior Courts of Common Law at *Westminster*, to order such Judgment to be vacated and Execution to be stayed or set aside, and to enter an Arrest of Judgment, or grant a new Trial or new Writ of Inquiry, as Justice may appear to require; and thereupon the Party affected by such Writ of Execution shall be restored to all that he may have lost thereby, in such Manner as upon the Reversal of a Judgment by Writ of Error or otherwise, as the Court may think fit to direct.

Execution stayed, and new Trial granted.

XXI. And be it enacted, That it shall be lawful for the Defendant in all personal Actions, except Actions for Assault and Battery, false Imprisonment, Libel, Slander, malicious Arrest or Prosecution, Criminal Conversation, or debauching of the Plaintiff's Daughter or Servant, by Leave of the said Court of Pleas at *Durham* or One of the Judges of any of Her Majesty's Superior Courts of Common Law at *Westminster*, to pay into Court a Sum of Money by Way of Compensation or Amends, in such Manner and under such Regulations as to the Payment of Costs and the Form of Pleading as the said Court or Judge shall, by any Rules or Orders to be from Time to Time made, order and direct.

Defendant to be allowed to pay Money into Court in certain Actions.

XXII. And be it enacted, That the Justices of the said Court of Pleas at *Durham* may, by any Rule or Order to be made from Time to Time after this Act shall take effect, make such Regulations as to the Fees to be charged by all and every or any of the Officers of the said Court of Pleas at *Durham*, and the Attornies thereof, as to them may seem expedient, and alter the same when and as it may seem fit and proper, so as such Fees shall not exceed the Fees now received in the Superior Court of Queen's Bench at *Westminster*; and all such Regulations, after being sanctioned and confirmed by the Judges of the then last Assize for the said County of *Durham*, shall be binding and obligatory on the said Court of Pleas at *Durham* and all the Officers and Attornies of the said Court.

Courts may regulate the Fees to be taken in the Court of Pleas at Durham.

XXIII. And be it enacted, That it shall be lawful for any Party in any Action now depending or hereafter to be depending in the said Court of Pleas at *Durham* to apply, by Motion to any one of the Superior Courts at *Westminster* sitting in Banco, within such Period of Time after the Trial as Motions of the like Kind shall from Time to Time be permitted to be made in the said Superior Court, for a Rule to show Cause why a new Trial should not be granted, or Nonsuit set aside and a new Trial had, or a Verdict entered for the Plaintiff or Defendant, or a Nonsuit entered, as the Case may be, in such Action, which Court is hereby authorized and empowered to grant or refuse such Rule, and afterwards to proceed to hear and determine the Merits thereof, and to make such Orders thereupon as the same Court shall think proper; and in case such Court shall order a new Trial to be had in any such Action the Party or Parties obtaining such Order shall deliver the same, or an Office Copy thereof, to the Prothonotary of the said Court of Pleas at *Durham*, or his Deputy, and thereupon all Proceedings upon the former Verdict or Nonsuit shall cease, and the Action shall proceed to Trial at the next or some other subsequent

Rules for new Trials to be moved before any of the Courts at Westminster.

sequent Session of Assizes holden for the County of *Durham*, in like Manner as if no Trial had been had therein; or in case the Court before which any such Rule shall be heard shall order the same to be discharged, the Party or Parties obtaining any such Rule may, upon delivering the same, or an Office Copy thereof, to the said Prothonotary or his Deputy, be at liberty to proceed in any such Action as if no such Rule Nisi had been obtained, or if a Verdict be ordered to be entered for the Plaintiff or Defendant, or a Nonsuit is ordered to be entered, as the Case may be, Judgment shall be entered accordingly.

Judgment and Execution not to be stayed, unless the Party moving enter into Recognizance with Sureties.

XXIV. Provided always, and be it enacted, That the entering up of Judgment in any Action in the said Court of Pleas at *Durham*, and the issuing of Execution upon such Judgment, shall not be stayed, unless the Party intending to apply for such Rule as last aforesaid shall, with Two sufficient Sureties such as the last-mentioned Court shall approve of, become bound unto the Party for whom such Verdict or Nonsuit shall have been given or obtained, by Recognizance to be acknowledged in the same Court, or before a Justice thereof, in such reasonable Sum as the said Court shall think fit, to make and prosecute such Application as aforesaid, and also to satisfy and pay, if such Application shall be refused, the Debt or Damages and Costs adjudged and to be adjudged in consequence of the said Verdict or Nonsuit, and all Costs and Damages to be awarded for the delaying of such Execution thereon.

Nothing herein to take away the Power of the Court to grant a new Trial.

XXV. Provided also, and be it enacted, That nothing herein contained shall prevent the said Court of Pleas at *Durham* from making Order for any new Trial, or setting aside any Nonsuit, or entering a Nonsuit, or altering a Verdict as heretofore; provided the Judges of Assize in and for the said County of *Durham*, when sitting as Judges in the said Court of Pleas, shall be present on the making of such Order as Justices of the said Court, and shall be consenting thereto.

Service of Subpœna on Witnesses in any Part of the United Kingdom shall be valid to compel Appearance.

XXVI. And be it enacted, That the Service of every Writ of Subpœna hereafter to be issued out of the said Court and served upon any Person residing out of the Jurisdiction of the said Court shall be as valid and effectual in Law, and shall entitle the Party suing out the same to all and the like Remedies, by Action or otherwise howsoever, as if the same had been served within the Jurisdiction; and in case such Person so served shall not appear according to the Exigency of such Writ, it shall be lawful for the said Court, upon Oath or Affirmation to be taken in open Court, or upon an Affidavit, of the personal Service of such Writ, to transmit a Certificate of such Default, under the Hands of Two of the Justices of the said Court, to the Court of Queen's Bench in *England*, to the Court of Justiciary in *Scotland*, or to the Court of Queen's Bench in *Ireland*, and the said last-mentioned Courts respectively shall and may thereupon proceed against and punish, by Attachment or otherwise, according to the Course and Practice of the said respective Courts, the Person so having made default, in such and the like Manner as they might have done if such Person had neglected or refused to appear in obedience

obedience to a Writ of Subpœna or other Process issued to compel the Attendance of Witnesses out of such last-mentioned Courts respectively.

Expences of Attendance on Writs of Subpœna shall be tendered to Witnesses.

XXVII. Provided always, and be it enacted, That neither of the said Courts of Queen's Bench or Court of Justiciary shall in any Case proceed against or punish any Person, nor shall any such Person be liable to any Action, for having made default by not appearing to give Evidence in obedience to any Writ of Subpœna or other Process for that Purpose issued under the Authority of this Act, unless it shall be made appear to the Court that a reasonable and sufficient Sum of Money to defray the Expences of coming to give Evidence, and of returning from giving such Evidence, had been tendered to such Person at the Time when such Writ of Subpœna or other Process was served upon such Person.

For Removal of Judgment.

XXVIII. And be it enacted, That in all Cases where final Judgment shall be obtained in any Action or Suit in the said Court of Pleas at *Durham*, and also in all Cases where any Rule or Order shall be made by the said Court of Pleas at *Durham*, whereby any Sum of Money, or any Costs, Charges, or Expences, shall be payable to any Person, it shall be lawful for the Judges of any of Her Majesty's Superior Courts of Record at *Westminster*, upon the Application of any Person who at the Time of the Commencement of this Act shall have recovered, or who shall at any Time thereafter recover, such Judgment, or to whom any Money or Costs, Charges, or Expences shall be payable by such Rule or Order as aforesaid, or upon the Application of any Person on his Behalf, and upon the Production of the Record of such Judgment, or a Transcript thereof, or upon the Production of such Rule or Order, such Record or Transcript thereof, or Rule or Order, as the Case may be, being respectively under the Signature of the Prothonotary of the said Court of Pleas of *Durham*, or his Deputy, to order and direct the Judgment, or, as the Case may be, the Rule or Order of the said Court of Pleas at *Durham* to be removed into the said Superior Court, and immediately thereon such Judgment, Rule, or Order shall be of the same Force, Charge, and Effect as a Judgment recovered in or a Rule or Order made by such Superior Court; and all Proceedings shall and may be immediately had and taken thereupon, or by reason or in consequence thereof, as if such Judgment so recovered, or Rule or Order so made, had been originally recovered in or made by the said Superior Court at *Westminster;* and all the reasonable Costs and Charges attendant upon such Application and Removal shall be recovered in like Manner as if the same were Part of such Judgment, Rule, or Order: Provided always, that no such Judgment, Rule, or Order, when so removed as aforesaid, shall affect any Lands, Tenements, or Hereditaments, as to Purchasers, Mortgagees, or Creditors, any further than the same would have done if the same had remained a Judgment, Rule, or Order of the said Court of Pleas at *Durham*, unless and until a Writ of Execution thereon shall be actually put into the Hands of the Sheriff or other Officer appointed to execute the same.

If Rules of the Court cannot be enforced, they may be made Rules of one of the Superior Courts at Westminster.

XXIX. And be it enacted, That in case any other Rule of the said Court of Pleas at *Durham* cannot be enforced by reason of the Nonresidence of any Party or Parties within the Jurisdiction thereof, it shall be lawful, upon a Certificate of such Rule by the Prothonotary of the said Court, or his Deputy, and an Affidavit that by reason of such Nonresidence such Rule cannot be enforced as aforesaid, to make such a Rule of any one of the said Superior Courts at *Westminster*, whereupon such Rule shall be enforced as a Rule of the Court last-mentioned.

Date of Writs and Return of Executions.

XXX. And be it enacted, That every Writ of Venire facias juratores issued out of the said Court of Pleas at *Durham* shall bear Date on the Day next preceding the first Commission Day of each Assizes, unless such Commission Day shall be on a *Monday*, and then on the *Saturday* preceding, and that every Writ of Habeas corpora juratorum shall bear Date on the Day of the Return of the Venire facias juratores; and that all other Writs issued out of the said Court of Pleas at *Durham*, except Writs of Distringas and Exigent and Proclamation, shall respectively bear Date on the Day on which the same shall be issued; and that all Writs of Execution may, if the Party suing out the same shall think fit, be made returnable immediately after the Execution thereof.

Power to adopt Rules made or to be made for the Superior Courts at Westminster.

XXXI. And be it enacted, That whenever by any Act of Parliament, or by or under the Authority of any Act of Parliament, or by any Rule or Order of any of Her Majesty's Superior Courts at *Westminster*, or of any of the Judges of the same, any Rules, Orders, or Regulations already have been or hereafter shall be made for the Purpose of framing, regulating, or amending the Proceedings, Practice, or Pleadings of any of the said Superior Courts at *Westminster*, it shall be lawful for the Justices of the said Court of Pleas at *Durham*, or any Two of them, by Rule or Order to be made in that Behalf, to adopt, *mutatis mutandis*, all or any of such Rules, Orders, or Regulations, or any Part or Parts thereof, as to the said Court shall seem fit.

Costs for preparing Pleadings the same as in the Superior Courts.

XXXII. And be it enacted, That the Costs to be from Time to Time allowed for preparing Pleadings in Actions in the said Court of Pleas at *Durham* shall be the same as shall be allowed for preparing Pleadings of a like Description in Actions in the Superior Courts at *Westminster*.

Recognizance to be entered into by the Party removing a Cause from an inferior Court into the Court of Pleas.

XXXIII. And be it enacted, That the Proceedings in all Actions, except Actions of Replevin, which shall be removed from any inferior Court within the said County Palatine of *Durham* into the said Court of Pleas by Writ of Pone loquelam or any other Writ, shall not be stayed or delayed in any such inferior Court by reason of any such Writ of Pone loquelam or other Writ, unless the Person or Persons removing such Action from any such inferior Court, with Two sufficient Sureties such as the Sheriff or other Officer of such inferior Court shall approve of, shall be bound unto the other Party in the said Action, by Recognizance, to be acknowledged before such Sheriff or other Officer of such inferior Court, in Double the Amount

of the Debt or Damages mentioned in the Writ issued in such inferior Court, or in such other Sum as such Sheriff or other Officer of such inferior Court shall direct, to prosecute the said Writ of Pone loquelam or such other Writ with effect, and also to satisfy and pay (if Judgment be given against the Person or Persons removing such Cause, or the Writ of Pone loquelam or other Writ be not proceeded in) all and singular the Debt, Damages, and Costs adjudged.

Recognizance to be entered into by the Party bringing a Writ of false Judgment.

XXXIV. And be it enacted, That in all Cases the Person or Persons in whose Name or Names any Writ of false Judgment or Supersedeas thereon shall be brought for the reversing of any Judgment in any inferior Court within the said County Palatine of *Durham* shall, with Two sufficient Sureties such as the said Court of Pleas shall approve of, within Six Days after the Return of any such Writ into the Court of Pleas at *Durham*, be bound unto the Party for whom such Judgment is given, by Recognizance, to be acknowledged before a Justice of the said Court of Pleas at *Durham*, in Treble the Sum adjudged to be recovered by the former Judgment, to prosecute the said Writ of false Judgment or Supersedeas with Effect, and also to satisfy (if the said Judgment shall be affirmed, or the Writ of false Judgment or Supersedeas be not proceeded in,) all and singular the Debt, Damages, and Costs adjudged, and all Costs and Damages to be awarded for the delaying Execution; and in case such Recognizance shall not be acknowledged and entered into such Writ of false Judgment shall abate, and the Party to whom such Judgment is given, on delivering to the Sheriff or other Officer in such inferior Court a Certificate by the Prothonotary of the said Court of Pleas, or his Deputy, that such Recognizance has not been acknowledged and entered into, shall be entitled to Execution out of such inferior Court for the Sum adjudged to be recovered by such Judgment, and Costs of Action.

Compensation awarded to the Cursitor of the County of Durham.

XXXV. And whereas it is expedient that due Provision should be made for the Compensation of the Cursitor of the County of *Durham* for the Losses he may sustain by the Reduction of or Abolition of his Fees by virtue or in consequence of this Act: Be it therefore enacted, That from and after the Commencement of this Act there shall be issued, paid, and payable out of, and charged upon, the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, to the said Cursitor, free and clear of all Taxes and Deductions whatsoever, such Sums of Money, at such Times, by way of Annuity or otherwise, as, having regard to the Manner of his Appointment to such Office, and the Time and Duration thereof, and all the Circumstances of the Case, shall be adjudged and determined to be due to such Cursitor by any Commission to be appointed by Her Majesty or by virtue of any Act of Parliament for the Purpose of determining the Amount of the Compensation that ought to be due and payable in such Cases; and in the meantime and until such Compensation shall be awarded and determined in manner aforesaid, or the Time shall have elapsed that may be appointed for claiming the same, it shall be lawful for the Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain* and *Ireland*, or any Three of

of them, to issue their Warrants for the Payment to such Cursitor as aforesaid, out of the said Consolidated Fund, of such half-yearly or quarterly Allowances as to the said Commissioners shall seem reasonable, both as to the Amount and Time of Payment, on account of such Compensation as may be thereafter awarded to the said Cursitor.

Cursitor not to receive Compensation unless he makes a Statement of the Fees received.

XXXVI. Provided always, and be it enacted, That such Cursitor shall not be entitled to receive any such Compensation or Allowance as aforesaid unless he shall previously make a full and true Statement to the said Commissioners of Her Majesty's Treasury, to be verified on Oath before a Judge or Master Extraordinary in Chancery, if they shall think fit so to direct, of the Amount of the Salary, Fees, and Emoluments of such Office, and of the Disbursements and Outgoings of the same, for the Time they shall have held such Office, or for the Space of Ten Years before the passing of this Act, and the Amount of such Fees during such Period of Time as aforesaid as are to be abolished by this Act shall be set forth in such Statement; and that such Compensation or Allowances shall cease altogether or be reduced in Amount, as the Case may be, whenever the Party entitled to receive the same shall be placed in any other Public Office of which the Salary and Emoluments shall be equal to the Whole or to Part of such Compensation or Allowance, so that in such last-mentioned Case such Cursitor shall not be entitled to receive more of such Compensation or Allowance than shall be equal to the Difference between the full Amount thereof and the Amount of the Salary and Emoluments of the Office in which he may be hereafter placed.

Cases in which Compensation shall cease or be reduced.

Commencement of the Act.

XXXVII. And be it enacted, That this Act shall commence and take effect on the Thirteenth Day of *September* One thousand eight hundred and thirty-nine.

Act may be altered this Session.

XXXVIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed during the present Session of Parliament.

SCHE-

SCHEDULE to which this Act refers.

No. 1.

Writ of Summons.

Victoria, *&c.*

To *C. D.* of, *&c.* in the County of Durham, greeting.

We command you [*or* as before *or* often We have commanded you], That within Eight Days after the Service of this Writ on you, inclusive of the Day of such Service, you do cause an Appearance to be entered for you in Our Court of Pleas at Durham in an Action on Promises [*or* of Debt, *&c.*, *as the Case may be*], at the Suit of *A. B.*; and take notice, that in default of your so doing the said *A. B.* may cause an Appearance to be entered for you, and proceed therein to Judgment and Execution.

Witness at Durham the Day of in the Year of Our Reign.

Memorandum to be subscribed on the Writ.

N. B.—This Writ is to be served within Four Calendar Months from the Date hereof, including the Day of such Service.

Indorsements to be made on the Writ before Service thereof.

This Writ was issued by *E. F.* of Attorney for the said *A. B.*

or

This Writ was issued in person by *A. B.*, who resides at [*mention the City, Town, or Parish, and also the Name of the Hamlet, Street, and Number of the House of the Plaintiff's Residence, if any such*].

The Plaintiff claims for Debt, and for Costs, and if the Amount thereof be paid to the Plaintiff or Attorney within Eight Days from the Service hereof, inclusive of the Day of such Service, further Proceedings will be stayed.

Indorsement to be made on the Writ after Service thereof.

This Writ was served by me *X. Y.* on the Day of One thousand eight hundred and thirty

X. Y.

No. 2.

Forms of entering an Appearance.

In the Court of Pleas at Durham,
A. B. Plaintiff against *C. D.*
[*or*
C. D. and another,
or
Against *C. D.* and others.]

The Defendant *C. D.* appears in person [*or* *E. F.*, Attorney for *C. D.*, appears for him, *or* *G. H.*, Attorney for the Plaintiff, appears for the Defendant *C. D.*, according to the Statute.

Entered the Day of One thousand eight hundred and

No. 3.

Writ of Distringas.

Victoria, *&c.*

To the Sheriff of Durham,

[*or*

To the Coroners of the County of Durham], greeting.

We command you, That you omit not, by reason of any Liberty in your Bailiwick, but that you enter the same, and distrain upon the Goods and Chattels of *C. D.* for the Sum of Forty Shillings, in order to compel his Appearance in Our Court of Pleas at Durham to answer *A. B.* in a Plea of Trespass on the Case [*or* of Debt, *&c., as the Case may be*], and how you shall execute this our Writ you make known to our Justices at Durham on the Day of [instant *or* now next ensuing].

Witness at Durham the Day of in the Year of Our Reign.

Notice to be subscribed to the foregoing Writ.

In the Court of Pleas at Durham.

Between *A. B.*, Plaintiff,
and
C. D., Defendant.

Mr. *C. D.*,

Take notice, That I have this Day distrained upon your Goods and Chattels in the Sum of Forty Shillings, in consequence of your not having appeared in the said Court to answer *A. B.* according to the Exigency of a Writ of Summons bearing Date on the Day of ; and that in default of your Appearance to the present Writ within Eight Days inclusive after the Return thereof, the said *A. B.* will cause an Appearance to be entered for you, and proceed thereon to Judgment and Execution [*or, if the Defendant be subject to Outlawry*, will cause Proceedings to be taken to outlaw you.]

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1839.