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C A P. LVIII.

An Act to enable Courts of Law to give Relief against adverse Claims made upon Persons having no Interest in the Subject of such Claims. [20th *October* 1831.]

WHEREAS it often happens that a Person sued at Law for the Recovery of Money or Goods wherein he has no Interest, and which are also claimed of him by some Third Party, has no Means of relieving himself from such adverse Claims but by a Suit in Equity against the Plaintiff and such Third Party, usually called a Bill of Interpleader, which is attended with Expence and Delay; for Remedy thereof 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 upon Application made by or on the Behalf of any Defendant sued in any of His Majesty's Courts of Law at *Westminster*, or in the Court of Common Pleas of the County Palatine of *Lancaster*, or the Court of Pleas of the County Palatine of *Durham*, in any Action of Assumpsit, Debt, Detinue, or Trover, such Application being made after Declaration, and before Plea, by Affidavit or otherwise, showing that such Defendant does not claim any Interest in the Subject Matter of the Suit, but that the Right thereto is claimed or supposed to belong to some Third Party who has sued or is expected to sue for the same,

Upon Application by a Defendant in an Action of Assumpsit, &c. stating that the Right in the Subject Matter is in a Third Party, the Court may order

such Third Party to appear and maintain or relinquish his Claim, and in the meantime stay Proceedings in such Action.

and that such Defendant does not in any Manner collude with such Third Party, but is ready to bring into Court or to pay or dispose of the Subject Matter of the Action in such Manner as the Court (or any Judge thereof) may order or direct, it shall be lawful for the Court, or any Judge thereof, to make Rules and Orders calling upon such Third Party to appear and to state the Nature and Particulars of his Claim, and maintain or relinquish his Claim, and upon such Rule or Order to hear the Allegations as well of such Third Party as of the Plaintiff, and in the meantime to stay the Proceedings in such Action, and finally to order such Third Party to make himself Defendant in the same or some other Action, or to proceed to Trial on One or more feigned Issue or Issues, and also to direct which of the Parties shall be Plaintiff or Defendant on such Trial, or, with the Consent of the Plaintiff and such Third Party, their Counsel or Attornies, to dispose of the Merits of their Claims and determine the same in a summary Manner, and to make such other Rules and Orders therein as to Costs and all other Matters as may appear to be just and reasonable.

Judgment and Decision to be final.

II. And be it further enacted, That the Judgment in any such Action or Issue as may be directed by the Court or Judge, and the Decision of the Court or Judge in a summary Manner, shall be final and conclusive against the Parties, and all Persons claiming by, from, or under them.

If such Third Party shall not appear, &c. the Court may bar his Claim against the original Defendant.

III. And be it further enacted, That if such Third Party shall not appear upon such Rule or Order to maintain or relinquish his Claim, being duly served therewith, or shall neglect or refuse to comply with any Rule or Order to be made after Appearance, it shall be lawful for the Court or Judge to declare such Third Party, and all Persons claiming by, from, or under him, to be for ever barred from prosecuting his Claim against the original Defendant, his Executors or Administrators; saving nevertheless the Right or Claim of such Third Party against the Plaintiff; and thereupon to make such Order between such Defendant and the Plaintiff, as to Costs and other Matters, as may appear just and reasonable.

Proviso as to Orders made by a single Judge.

IV. Provided always, and be it further enacted, That no Order shall be made in pursuance of this Act by a single Judge of the Court of Pleas of the said County Palatine of *Durham* who shall not also be a Judge of one of the said Courts at *Westminster*, and that every Order to be made in pursuance of this Act by a single Judge not sitting in open Court shall be liable to be rescinded or altered by the Court in like Manner as other Orders made by a single Judge.

If a Judge thinks the Matter more fit for the Decision of the Court, he may refer it.

V. Provided also, and be it further enacted, That if upon Application to a Judge, in the first instance or in any later Stage of the Proceedings, he shall think the Matter more fit for the Decision of the Court, it shall be lawful for him to refer the Matter to the Court; and thereupon the Court shall and may hear and dispose of the same in the same Manner as if the Proceeding had originally commenced by Rule of Court, instead of the Order of a Judge.

For Relief of Sheriffs and other Officers in Execution of Process against Goods and Chattels.

VI. And whereas Difficulties sometimes arise in the Execution of Process against Goods and Chattels, issued by or under the Authority of the said Courts, by reason of Claims made to such Goods and Chattels by Assignees of Bankrupts and other Persons not being the Parties against whom such Process has issued, whereby Sheriffs and other Officers are exposed to the Hazard and Expence of Actions; and it is reasonable to afford Relief and Protection in such Cases to such Sheriffs and other Officers; be it therefore further enacted, That when any such Claim shall be made to any Goods or Chattels taken or intended to be taken in Execution under any such Process, or to the Proceeds or Value thereof, it shall and may be lawful to and for the Court from which such Process issued, upon Application of such Sheriff or other Officer made before or after the Return of such Process, and as well before as after any Action brought against such Sheriff or other Officer, to call before them, by Rule of Court, as well the Party issuing such Process as the Party making such Claim, and thereupon to exercise, for the Adjustment of such Claims and the Relief and Protection of the Sheriff or other Officer, all or any of the Powers and Authorities herein-before contained, and make such Rules and Decisions as shall appear to be just, according to the Circumstances of the Case; and the Costs of all such Proceedings shall be in the Discretion of the Court.

Rules, Orders, &c. made in pursuance of this Act may be entered of Record, and made Evidence.

Costs.

Writs.

Sheriffs Fees.

VII. And be it further enacted, That all Rules, Orders, Matters, and Decisions to be made and done in pursuance of this Act, except only the Affidavits to be filed, may, together with the Declaration in the Cause (if any), be entered of Record, with a Note in the Margin expressing the true Date of such Entry, to the end that the same may be Evidence in future Times, if required, and to secure and enforce the Payment of Costs directed by any such Rule or Order; and every such Rule or Order so entered shall have the Force and Effect of a Judgment, except only as to becoming a Charge on any Lands, Tenements, or Hereditaments; and in case any Costs shall not be paid within Fifteen Days after Notice of the Taxation and Amount thereof given to the Party ordered to pay the same, his Agent or Attorney, Execution may issue for the same by Fieri facias or Capias ad satisfaciendum, adapted to the Case, together with the Costs of such Entry, and of the Execution if by Fieri facias; and such Writ and Writs may bear Teste on the Day of issuing the same, whether in Term or Vacation; and the Sheriff or other Officer executing any such Writ shall be entitled to the same Fees, and no more, as upon any similar Writ grounded upon a Judgment of the Court.

Upon any Application under 1 W. 4. c. 21. and this Act, the Court to exercise such Powers and make such Rules as are given by or mentioned in this Act.

VIII. And whereas by a certain Act made and passed in the last Session of Parliament, intituled *An Act to improve the Proceedings in Prohibition and on Writs of Mandamus*, it was among other Things enacted, that it should be lawful for the Court to which Application may be made for any such Writ of Mandamus as is therein in that Behalf mentioned to make Rules and Orders calling not only upon the Person to whom such Writ may be required to issue, but also all and every other Person having or claiming any Right or Interest in or to the Matter of such Writ, to show Cause against the issuing of such Writ and Payment of the Costs of the Application, and upon the

the Appearance of such other Person in compliance with such Rules, or in default of Appearance after Service thereof, to exercise all such Powers and Authorities, and make all such Rules and Orders applicable to the Case, as were or might be given or mentioned by or in any Act passed or to be passed during that present Session of Parliament for giving Relief against adverse Claims made upon Persons having no Interest in the Subject of such Claims: And whereas no such Act was passed during the then present Session of Parliament; be it therefore enacted, That upon any such Application as is in the said Act and herein-before mentioned, it shall be lawful for the Court to exercise all such Powers and Authorities, and make all such Rules and Orders applicable to the Case, as are given or mentioned by or in this present Act.

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