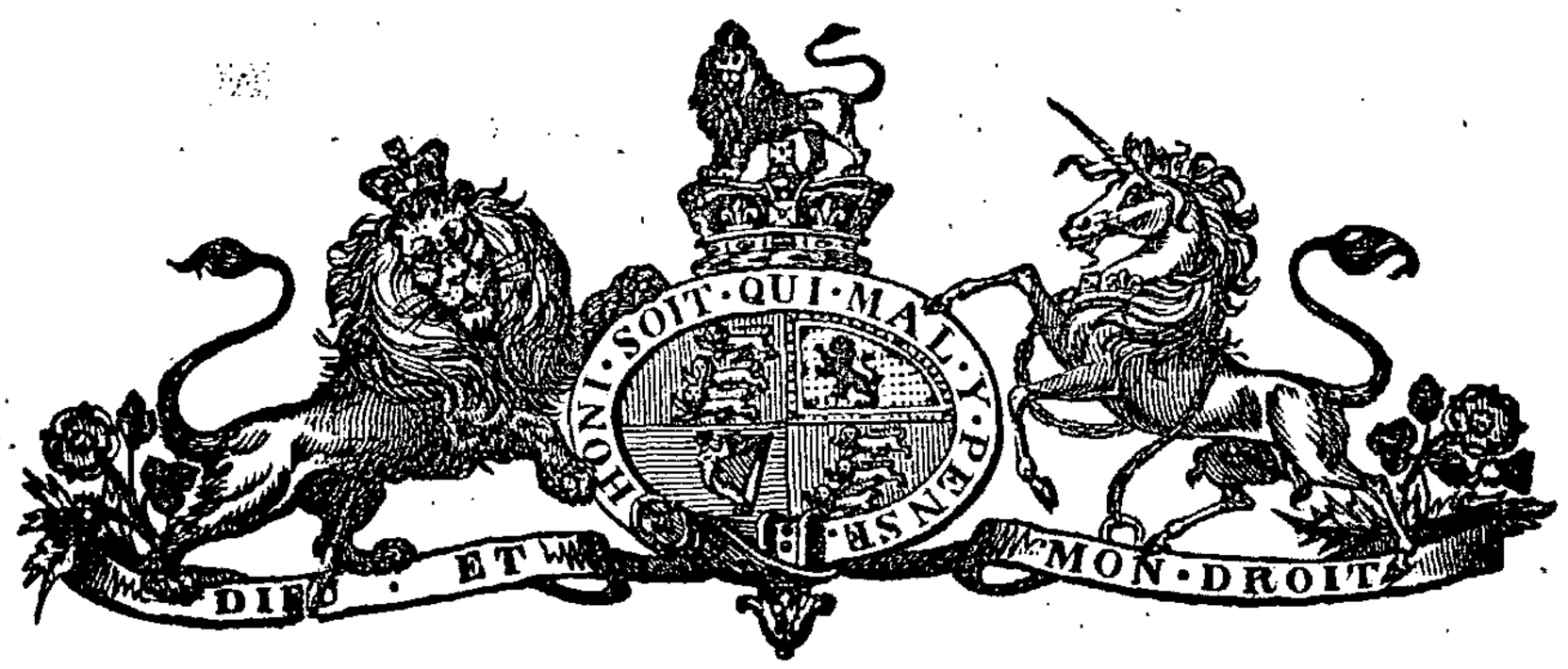


ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

***

of the Public General Act passed in the Session holden in the Fifth and Sixth Years of His said Majesty King *William* the Fourth, Chapter Seventy-six, and the Acts for the Amendment thereof relating to Borough Courts of Record, also apply to the said Court: And whereas it is expedient that the Provisions of the said Acts should be further amended, extended, and enlarged, and the said Court made more efficient, by extending its Powers, and simplifying its Procedure, Practice, and Mode of Pleading; and it is expedient to apply some of the Provisions of the "Common Law Procedure Act, 1852," with the requisite Modifications and Alterations, to the said Court of Passage: May it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen'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, as follows:

15 & 16 Vict. c. 76.

This Act and recited Acts to be read as One.

I. This Act and the said recited Acts shall be read and construed as One Act, as if the several Provisions in the said recited Acts not inconsistent with the Provisions of this Act were repeated and re-enacted in this Act.

Commencement of Act.

II. The Provisions of this Act shall come into operation on the Tenth Day of *Aguust* One thousand eight hundred and fifty-three.

Short Title of Act.

III. In citing this Act in any Instrument, Document, or Proceeding it shall be sufficient to use the Expression "The *Liverpool* Court of Passage Procedure Act, 1853."

Certain Clauses of 15 & 16 Vict. c. 76. as to Writs for Commencement of Actions to apply to this Act.

IV. All the Provisions of "The Common Law Procedure Act, 1852," with respect to the Writs for the Commencement of Personal Actions (except such as relate to the Teste thereof in the Name of a Judge), which are contained in the Sections numbered respectively Two, Three, Four, Five, Six, Seven, Eight, Eleven, Twelve, Thirteen, Fifteen, Sixteen, Seventeen, Twenty, and Twenty-five in the Queen's Printer's Copies of the said Act, shall extend and apply to the said Court.

Teste of Writs.

V. Every Writ of Summons shall be tested in the Name of the Mayor of the Borough, or, in case of a Vacancy of such Office, in the Name of One of the Aldermen of the said Borough.

Section 12. to be read as if certain Words had not been used therein.

VI. The said Section numbered Twelve shall be read as if the Words "according to the Provisions of the said Act of His late Majesty King *William* the Fourth" had not been used therein.

Section 25. to be read in the same Way.

VII. The said Section numbered Twenty-five shall be read as if the Words "the Defendant resides within the Jurisdiction of the Court and" had not been used therein.

VIII. The

The Liverpool Court of Passage Procedure Act, 1853.

Court may order that the Writ of Summons may be served in any Part of England or Wales.

VIII. The Court may, if it shall think fit, in any Case where it shall satisfactorily appear by Affidavit that the Cause of Action arises within the Jurisdiction of the said Court, order that the Writ of Summons may be served in any Part of *England* or *Wales*; and the Service of any Writ in pursuance of such Order shall be as valid and effectual as if the same had been served within the Jurisdiction of the said Court; provided that a Copy of such Order shall be served at the Time of the Service of such Writ of Summons.

All further Proceedings to be had as usual.

IX. In all Cases where an Order of the Court shall be made under the last preceding Section, all Proceedings in the Cause shall be had and taken as if the Defendant had been duly served with the Summons within the same Jurisdiction.

Objection to Jurisdiction to be by Plea.

X. No Defendant shall be permitted to object to the Jurisdiction of the Court in or by any Proceeding whatsoever, except by Plea.

No Cause to be removed into Superior Courts except by Leave of a Judge, and upon certain Terms.

XI. No Cause depending in the Court shall before Judgment be removed or removable into any of the Superior Courts of Record after Plea pleaded, unless by Leave of a Judge of One of the said Superior Courts, in Cases which shall appear to such Judge fit to be tried in One of the Superior Courts, and upon such Terms, if any, as to Payment of Costs, giving Security for Debt and Costs, or Damages and Costs, or such other Terms as he shall think fit: Provided that nothing in this Act contained shall be construed to repeal or interfere with any Restrictions heretofore existing as to the Removal of Causes out of the said Court.

Appearance, and Proceedings in default of Appearance.

XII. All the Provisions with respect to the Appearance of the Defendant and Proceedings of the Plaintiff in default of Appearance, contained in the Sections of the "Common Law Procedure Act, 1852," numbered Twenty-six, Twenty-seven, Twenty-eight, Twenty-nine, Thirty, Thirty-one, Thirty-two, and Thirty-three, in the Queen's Printer's Copies of the said Act, except such as relate to the Sum for Costs of a Judgment to be fixed by the Judges and Masters of the said Superior Courts, shall extend and apply to the said Court.

Costs of Judgment to be fixed by Registrar.

XIII. The Sum for Costs for which Judgment may be signed and Execution had under the Twenty-seventh and Twenty-eighth Sections respectively of the said "Common Law Procedure Act, 1852," shall be fixed by the Registrar of the said Court, subject to the Approval of the Assessor and One of the Masters of the Court of Queen's Bench at *Westminster*.

Provisions of 15 & 16 Vict. c. 76. as to Joinder of

XIV. All the Provisions with respect to the Joinder of Parties to Actions which are contained in the Sections of "The Common Law

Parties to apply to this Act.

Law Procedure Act, 1852," numbered Thirty-four, Thirty-five, Thirty-six, Thirty-seven, Thirty-eight, Thirty-nine, and Forty in the Queen's Printer's Copies of the said Act shall extend and apply to the said Court.

And with respect to Joinder of Causes of Action, be it enacted as follows:

Different Causes of Action may be joined, but separate Trials may be ordered.

XV. Causes of Action, of whatever kind, except Ejectment, may be joined in the same Suit, provided they be by and against the same Parties and in the same Rights; but the Court may have Power to prevent the Trial of different Causes of Action together if such Trial would be inexpedient, and in such Case the Court may order separate Records to be made up and separate Trials to be had.

Provisions of 15 & 16 Vict. c. 76. as to Questions by Consent without Pleading to apply to this Act.

XVI. All the Provisions with respect to the Determination of Questions raised by Consent of the Parties without pleading which are contained in the Sections of the "Common Law Procedure Act, 1852," numbered Forty-two, Forty-three, Forty-four, Forty-five, Forty-six, Forty-seven, and Forty-eight in the Queen's Printer's Copies of the said Act, shall extend and apply to the said Court.

Proceedings to set aside the Verdict, &c. to be the same as in ordinary Actions.

XVII. The Proceedings to set aside the Verdict, and order a new Trial to be had, or to enter the Verdict for either Party, according to Leave reserved at the Trial, shall be the same as in ordinary Actions.

A Special Case may be stated for the Opinion of One of the Superior Courts at Westminster.

XVIII. The Parties in any Action may, after Issue joined, by Consent, and by Order of the Court, state the Facts of the Case in the Form of a Special Case for the Opinion of any One of the Superior Courts of Common Law at *Westminster*, and may agree that a Judgment shall be entered for the Plaintiff or Defendant, as such Superior Court may think fit.

Special Case to be transmitted by the Registrar to the Rule Department of Master's Office.

XIX. The Registrar of the said Court shall transmit such Special Case, under the Seal of the Court, to the Rule Department of the Master's Office of the said Superior Court in which the Case is to be argued; and thereupon all such Proceedings shall be taken, and Rules and Regulations observed, in the said Superior Court, as are usual with reference to Cases stated for the Opinion of such Superior Court in Actions therein pending.

Registrar, upon Production of Rule of Superior Court, to enter Judgment.

XX. The Registrar of the Court, upon the Production of an Office Copy of the Rule of the Superior Court made upon hearing the said Special Case, shall enter Judgment in the said Court in conformity with the Decision of the said Superior Court.

XXI. All

The Liverpool Court of Passage Procedure Act, 1853.

Provisions of 15 & 16 Vict. c. 76. as to Pleadings in general to apply to this Act.

XXI. All the Provisions with respect to the Language and Form of Pleadings in general which are contained in the Sections of "The Common Law Procedure Act, 1852," numbered Forty-nine, Fifty, Fifty-two, Fifty-three, Fifty-four, Fifty-five, Fifty-six, and Fifty-seven in the Queen's Printer's Copies of the said Act, shall extend and apply to the said Court.

Objections by way of Special Demurrer taken away.

XXII. No Pleading shall be deemed insufficient for not containing an Averment that any Matter therein pleaded arose within the Jurisdiction of the Court, or for any Defect which could heretofore only be objected to by Special Demurrer.

Declaration and Particulars of Demand.

XXIII. All the Provisions with respect to the Time and Manner of declaring and to Particulars of Demand which are contained in the Sections of "The Common Law Procedure Act, 1852," numbered Fifty-eight, Fifty-nine, Sixty, and Sixty-one in the Queen's Printer's Copies of the said Act, shall extend and apply to the said Court.

Provisions of 15 & 16 Vict. c. 76. as to Pleas and subsequent Pleadings to apply to this Act.

XXIV. All the Provisions with respect to Pleas and subsequent Pleadings which are contained in the Sections of the "Common Law Procedure Act, 1852," numbered Sixty-two, Sixty-three, Sixty-four, Sixty-five, Sixty-six, Sixty-seven, Sixty-eight, Sixty-nine, Seventy, Seventy-one, Seventy-three, Seventy-four, Seventy-five, Seventy-six, Seventy-seven, Seventy-eight, Seventy-nine, Eighty, Eighty-one, Eighty-three, Eighty-four, Eighty-five, Eighty-six, Eighty-seven, Eighty-eight, Eighty-nine, and Ninety, in the Queen's Printer's Copies of the said Act, shall extend and apply to the said Court.

Money how paid in.

XXV. Where Money is paid into Court it shall be paid to the Registrar of the Court, who shall give a Receipt for it in the Margin of the Plea, and the said Sum shall be paid out to the Plaintiff, or to his Attorney, on Demand.

Provision, &c. of 15 & 16 Vict. c. 76. as to Examples of Pleadings to apply to this Act.

XXVI. The Provisions with respect to the Statements of Causes of Action and Forms of Pleading contained in the Ninety-first Section and Schedule (B.) of the Queen's Printer's Copies of the said "Common Law Procedure Act, 1852," shall extend and apply to the said Court.

And with respect to the Production and Inspection of Documents, be it enacted as follows:

Power to Court to compel Parties to allow Inspection of Documents, and also Copies to be taken.

XXVII. In any Action or other legal Proceeding in the said Court, the Court may, on Application made for such Purpose by either of the Litigants, compel the opposite Party to allow the Party making the Application to inspect all Documents in the Custody or

under the Control of such opposite Party relating to such Action or other legal Proceeding, and, if necessary, to take examined Copies of the same, or to procure the same to be duly stamped, in all Cases in which previous to the passing of this Act a Discovery might have been obtained by filing a Bill or by any other Proceeding in a Court of Equity at the Instance of the Party so making Application as aforesaid to the said Court.

Certain Provisions of 15 & 16 Vict. c. 76. with respect to Judgment by Default to apply to this Act.

XXVIII. All the Provisions with respect to Judgment by Default, and the Mode of ascertaining the Amount to be recovered thereupon, which are contained in the Sections of "The Common Law Procedure Act, 1852," numbered Ninety-two, Ninety-three, Ninety-four, Ninety-five, and Ninety-six in the Queen's Printer's Copies of the said Act, shall extend and apply to the said Court.

And with respect to Judgment for Default in not proceeding to Trial, be it enacted as follows:

Proceeding where Plaintiff neglects to bring Issue on to be tried.

XXIX. Where any Issue is or shall be joined in any Cause, and the Plaintiff has neglected or shall neglect to bring such Issue on to be tried at or before the Second Court for the Trial of Issues next after Issue joined, whether the Plaintiff shall in the meantime have given Notice of Trial or not, the Defendant may give Ten Days Notice to the Plaintiff to bring the Issue on to be tried at the Court for the Trial of Issues next after the Expiration of the Notice, and if the Plaintiff afterwards neglects to give Notice of Trial for such Court, or to proceed to Trial, in pursuance of the said Notice given by the Defendant, the Defendant may enter the Proceedings on Record, and suggest thereon that the Plaintiff has failed to proceed to Trial, although duly required so to do (which Suggestion shall not be traversable, but only be subject to be set aside if untrue), and may sign Judgment for his Costs; provided that the Court shall have Power to extend the Time for proceeding to Trial, with or without Terms.

Defendant's Right to try upon Default of the Plaintiff preserved.

XXX. Nothing herein contained shall affect the Right of a Defendant to set down a Cause for Trial, after Default by the Plaintiff to proceed to Trial according to the Course and Practice of the Court; and if Records are entered for Trial both by the Plaintiff and the Defendant, the Defendant's Record shall be treated as standing next in Order after the Plaintiff's Record in the List of Causes, and the Trial of the Cause shall take place accordingly.

And with respect to the Trial of Causes by special Juries:

Mode of obtaining Special Jury.

XXXI. The Plaintiff in any Action shall be entitled to have the Cause tried by a Special Jury, upon giving Notice in Writing to the Defendant, at such Time as would be necessary for the Notice of Trial,

Trial, of his Intention that the Cause shall be so tried; and the Defendant shall be so entitled, on giving the like Notice within the Time limited for giving Countermand of Notice of Trial, according to the Practice of the said Court; provided that the Court may at any Time order that a Cause shall be tried by a Special Jury, upon such Terms as may be deemed fit.

Notice to Registrar of Trial by Special Jury.

XXXII. Where such Notice has been given to try by a Special Jury either Party may, Three Days before the sitting of the Court for the Trial of Issues, give Notice to the Registrar that such Cause is to be tried by a Special Jury, and shall at the same Time deposit with the Registrar the Sum of Six Pounds Six Shillings, to be paid by him to such Special Jury, besides the usual Fees of Court; and in case no such Notice be given or Deposit made no Special Jury need be summoned or attend, and the Cause may be tried by a Common Jury, unless otherwise ordered by the Court or the Assessor.

Special Jurors.

XXXIII. Every Burgess of the said Borough who shall be described in the Jurors Book for the County Palatine of *Lancaster* as an Esquire or Person of higher Degree, or as a Banker or Merchant, and not being by Law otherwise exempt or disqualified, shall be liable to serve on Special Juries in the said Court, and shall not be liable to be summoned or serve as a Common Juror in the said Court.

Special Jurors to be summoned to try all Special Jury Causes.

XXXIV. The Registrar of the said Court shall, upon such Notice being given to him and Deposit made, cause to be summoned, out of the Burgesses liable to serve as Special Jurors as aforesaid, a sufficient Number of Special Jurors, not exceeding Twenty-four in all, to try the Special Jury Causes at the said Court, and the Persons so summoned shall be the Jury for trying the Special Jury Causes at the said Court, subject to such Right of Challenge as the Parties are now by Law entitled to; and a Panel of the Special Jurors so summoned shall be made and kept in the Manner provided by the Rules and Practice of the Court with reference to the Panel of Common Jurors, and upon the Trial the Special Jury shall be balloted for and called in the Order in which they shall be drawn from the Box in the same Manner as Common Jurors.

Fines on Special Jurors for Non-attendance.

XXXV. If any such Special Juror, having been duly summoned, shall not attend in pursuance of such Summons, or after his Appearance wilfully withdraw himself from the Presence of the Court, the Court shall impose such Fine upon every Person so making default, unless some reasonable Excuse shall be proved to the Satisfaction of the Court, as the Court shall think meet; and in case of Nonpayment of such Fine, according to the Directions of the Court, the same may be

be levied in such Manner as is provided for the levying of Fines imposed upon Common Jurors for any similar Default under the Provivisions of the Fifth and Sixth *William* the Fourth, Chapter Seventy-six, Section One hundred and twenty-one.

As to Costs of Speial Jury.

XXXVI. The Person or Party who shall apply for a Special Jury shall pay all the Expenses occasioned by the Trial of the Cause by the same, and shall not have any further or other Allowance for the same upon Taxation of Costs than such Party would be entitled to in case the Cause had been tried by a Common Jury, unless the Assessor shall immediately after the Verdict, or after the Plaintiff shall have been nonsuited, as the Case may be, certify under his Hand upon the Back of the Record, and that the same was a Cause proper to be tried by a Special Jury.

If a full Jury shall not appear, or if reduced by Challenges, Court may order others to be named sufficient to make a full Jury.

As to Challenges of newly added Jurors.

XXXVII. If a full Jury shall not appear before the Court, or if, after the Appearance of a full Jury, by Challenge of any of the Parties the Jury is likely to remain untaken for Default of Jurors, the Court, upon Request made by the Parties, Plaintiff or Defendant, or their respective Attornies, shall command the Registrar to name and appoint, as often as Need shall require, so many of such other Burgesses of the said Borough then present as shall make up a full Jury, and the Registrar shall at such Command of the Court return such Burgesses as shall be present or can be found to serve on such Jury, and shall add and annex their Names to the former Panel; provided that where a Special Jury shall have been summoned for the Trial of any Issue the Talesmen shall be such as shall be impanelled upon the Common Jury Panel to serve at the same Court, if a sufficient Number of such Burgesses can be found; and all and every the Parties aforesaid shall and may in each of the Cases aforesaid have their respective Challenges to the Jurors so newly added and annexed; and the Court shall proceed to the Trial of every such Issue with those Jurors who were before impanelled, together with the Talesmen so newly added and annexed, or if all the said Jurors had been so returned upon the Writ or Precept awarded to try the Issue.

Provisions of 15 & 16 Vict. c. 76. as to Admission of Documents;

XXXVIII. All the Provisions with respect to the Admission of Documents which are contained in the Sections of "The Common Law Procedure Act, 1852," numbered One hundred and seventeen, One hundred and eighteen, and One hundred and nineteen, in the Queen's Printer's Copies of the said Act, shall extend and apply to the said Court.

as to Executions;

XXXIX. All the Provisions with respect to Executions which are contained in the Sections of "The Common Law Procedure Act, 1852," numbered

numbered One hundred and twenty-three and One hundred and twenty-six in the Queen's Printer's Copies of the said Act, shall extend and apply to the said Court.

as to Proceedings to revive;

XL. All the Provisions with respect to Proceedings for the Revival of Judgments and other Proceedings by and against Persons not Parties to the Record which are contained in the Sections of "The Common Law Procedure Act, 1852," numbered One hundred and twenty-eight, One hundred and twenty-nine, One hundred and thirty, One hundred and thirty-one, One hundred and thirty-two, One hundred and thirty-three, and One hundred and thirty-four, in the Queen's Printer's Copies of the said Act, (except so much of the said One hundred and thirty-first Section as relates to the Venue in a Declaration upon a Writ of Revivor,) shall extend and apply to the said Court.

as to the Effect of Death, Marriage, and Bankruptcy;

XLI. All the Provisions with respect to the Effect of Death, Marriage, and Bankruptcy upon the Proceedings in an Action which are contained in the Sections of "The Common Law Procedure Act, 1852," numbered One hundred and thirty-five, One hundred and thirty-six, One hundred and thirty-seven, One hundred and thirty-eight, One hundred and thirty-nine, One hundred and forty, One hundred and forty-one, and One hundred and forty-two, in the Queen's Printer's Copies of the said Act, except the Words "Two Terms" in the said One hundred and thirty-ninth Section, shall extend and apply to the same Court; the said Section numbered One hundred and thirty-nine shall be read as if the Words "Three Months" had been used therein instead of the Words "Two Terms."

and as to Proceedings upon Motions to arrest the Judgment, and Judgment Non obstante veredicto, to apply to this Act.

XLII. All the Provisions with respect to the Proceedings upon Motions to arrest the Judgment, and for Judgment Non obstante veredicto, which are contained in the Sections of "The Common Law Procedure Act, 1852," numbered One hundred and forty-three, One hundred and forty-four, and One hundred and forty-five, (except such Part of the Section numbered One hundred and forty-three in the said Act as relates to a Motion in arrest of Judgment, pursuant to the First *William* the Fourth, Chapter Seven,) shall extend and apply to the said Court.

And with respect to Judgment and Execution, and to granting new Trials, and entering Nonsuits and Verdicts, be it enacted,

Costs may be taxed and Execution issued on any Day subsequent to the Trial.

XLIII. That the Costs may be taxed by the Registrar, and final Judgment signed and Execution issued on any Day subsequent to the Day on which the Issue may have been tried or the Inquiry executed; provided that the Assessor or the Court may in either of such

such Cases order Proceedings to be stayed for such Time and on such Terms as they may deem fit.

Power to the Assessor when out of the Borough to hear and determine Motions, &c.

XLIV. The Assessor of the Court may, at any Time within Twenty-one Days after the Trial of any Cause, and whether the said Court be sitting or not, and either when within or when out of the Jurisdiction of the said Court, hear and grant Applications for Rules to show Cause in arrest of Judgment, or for Judgment Non obstante veredicto, or for a Repleader, or for granting new Trials, and for entering Nonsuits and Verdicts in Causes pending in the Court, which he might lawfully hear during the Sitting of such Court; and all Rules and Orders made by him upon the Hearing of such Motions shall be as valid and binding upon the Parties as if the same had been made during the Sitting of such Court as aforesaid.

Rules to set aside or enter Verdict, &c. may be moved before any of the Courts at Westminster, if Assessor shall grant Leave.

XLV. If upon the Trial of any Issue the Assessor shall grant Leave to the Plaintiff or Defendant to move, in any One of the Superior Courts of Common Law at *Westminster*, to set aside a Verdict or a Nonsuit, and to enter a Verdict for the Plaintiff or Defendant, or to enter a Nonsuit, as the Case may be, or for a new Trial, the Party to whom such Leave may have been given may apply by Motion to such Superior Courts, 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 such Superior Court, for a Rule to show Cause why such Verdict or Nonsuit should not be set aside, and a Verdict entered for the Plaintiff or Defendant, or a Nonsuit entered, or why a new Trial should not be had, as the Case may be, in such Action; which Court is hereby authorized and empowered to grant or refuse such Rule, which Rule, when granted, shall operate as a Stay of Proceedings until the Determination thereof, and afterwards to proceed to hear and determine the Merits thereof, and to make such Orders thereupon and as to Costs 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 obtaining such Order shall deliver the same, or an Office Copy thereof, to the Registrar of the said Court, and thereupon all the Proceedings on the former Verdict or Nonsuit shall cease, and the Action shall proceed to Trial, according to the Practice of the Court, in like Manner as if no Trial had been had therein; or in case the Court before whom such Rule shall be heard shall order the same to be discharged, the Party obtaining any such Order may, upon delivering the same, or an Office Copy thereof, to the said Registrar, be at liberty to proceed in any such Action as if no such Rule Nisi had been obtained; and if a Verdict be ordered to be entered for the Plaintiff or Defendant, or a Nonsuit be ordered to be entered, as the Case may be, Judgment shall be entered accordingly.

XLVI. Pro-

Not to prevent Court or Assessor from granting new Trials.

XLVI. Provided always, That nothing herein contained shall prevent the said Court or the Assessor from granting any new Trial, or setting aside any Nonsuit, or entering a Nonsuit, or altering a Verdict, as heretofore.

Provisions of 15 & 16 Vict. c. 76. as to Proceedings in Error to apply to this Act.

XLVII. All the Provisions with respect to Proceedings in Error which are contained in the Sections of "The Common Law Procedure Act, 1852," numbered One hundred and forty-six, One hundred and forty-seven, One hundred and forty-eight, One hundred and forty-nine, One hundred and fifty, One hundred and fifty-one, One hundred and fifty-two, One hundred and fifty-three, One hundred and fifty-four, One hundred and fifty-five, One hundred and fifty-six, One hundred and fifty-seven, One hundred and fifty-eight, One hundred and fifty-nine, One hundred and sixty, One hundred and sixty-one, One hundred and sixty-two, One hundred and sixty-three, One hundred and sixty-four, One hundred and sixty-five, One hundred and sixty-six, and One hundred and sixty-seven, in the Queen's Printer's Copies of the said Act, shall extend and apply to the said Court: Provided always, that Error may be brought in any of Her Majesty's Superior Courts of Common Law at *Westminster*, and that it shall not be necessary to bring the Judgment Roll into the Superior Court in which Error shall be brought, as required and provided by the said Section numbered One hundred and fifty-five in the Queen's Printer's said Copies, but it shall be sufficient in the Place thereof to transmit to the said Superior Court a Transcript of the Record of any Judgment or Proceeding in the said Court on which Error is alleged, and that the Judgment of the said Superior Court thereon shall be certified by the proper Officer of the said Superior Court, or by Rule of Court, as the said Superior Court may direct, and thereupon such Judgment shall be entered on the original Record in the said Court, and such further Proceedings as may be necessary thereon shall be awarded by the said Court, subject to the Right of either Party to allege Errors in the said Judgment in the said Superior Court, and proceed thereon as provided by the said "Common Law Procedure Act, 1852," in the Case of Errors alleged in Actions depending in such Superior Court.

And with respect to the Action of Ejectment, be it enacted as follows:

Court may try Actions of Ejectment.

XLVIII. The Court shall have Authority to try all Actions of Ejectment between Landlord and Tenant, wherein the annual Rent of the Premises of which Possession is sought to be recovered shall not exceed One hundred Pounds, and upon which no Fine shall have been reserved or made payable.

XLIX. All

The Liverpool Court of Passage Procedure Act, 1853.

All the Provisions contained in certain Sections of 15 & 16 Vict. c. 76., so far as they extend to Actions of Ejectment, to apply to this Act.

XLIX. All the Provisions contained in the Sections of "The Common Law Procedure Act, 1852," numbered One hundred and sixty-eight, One hundred and sixty-nine, One hundred and seventy, One hundred and seventy-one, One hundred and seventy-two, One hundred and seventy-four, One hundred and seventy-five, One hundred and seventy-six, One hundred and seventy-seven, One hundred and seventy-eight (except such Part thereof as relates to the Sheriff being directed to summon a Jury), One hundred and seventy-nine, One hundred and eighty, One hundred and eighty-one, One hundred and eighty-three, One hundred and eighty-four, One hundred and eighty-five, One hundred and eighty-six, One hundred and eighty-seven, One hundred and ninety, One hundred and ninety-one, One hundred and ninety-two, One hundred and ninety-three, One hundred and ninety-four, One hundred and ninety-five, One hundred and ninety-six, One hundred and ninety-seven, One hundred and ninety-eight, One hundred and ninety-nine, Two hundred, Two hundred and one, Two hundred and three, Two hundred and four, Two hundred and five, Two hundred and six, Two hundred and seven, Two hundred and nine, Two hundred and ten, Two hundred and eleven, Two hundred and twelve, Two hundred and thirteen, Two hundred and fourteen, Two hundred and fifteen, Two hundred and sixteen, Two hundred and eighteen, and Two hundred and twenty-one, in the Queen's Printer's Copies of the said Act, so far as such Provisions extend or are or may be applicable to an Action of Ejectment between Landlord and Tenant, shall extend and apply to the said Court: Provided always, that such Parts of the Provisions and Enactments contained in the before-mentioned Sections as relate to the Time within which Judgment may be signed and Execution issue shall not be so extended or applied; and in lieu thereof Judgment may be signed and Execution issue on any Day subsequent to the Day on which the Issue may come on to be tried, unless the Assessor or the Court shall order Proceedings to be stayed.

Proviso.

If Claimant in an Action of Ejectment allow Term to elapse without going to Trial, Defendant to have Judgment.

L. If, after Appearance entered, the Claimant, without going to Trial, allow the Time allowed for going to Trial by the Practice of the Court in ordinary Cases after Issue joined to elapse, the Defendant in Ejectment may give Ten Days Notice to the Claimant to proceed to Trial at the Court of Passage holden for the Trial of Issues next after the Expiration of the Notice, and if the Claimant afterwards neglects to give Notice of Trial for such Court, or to proceed to Trial in pursuance of the said Notice given by the Defendant, and the Time for going to Trial shall not be extended by the Court, the Defendant may sign Judgment in the Form contained in the Schedule A. to the said "Common Law Procedure Act, 1852," annexed, marked No, 19., and recover the Costs of Defence.

And

And whereas the Power of Amendment now vested in the Court and the Assessor is insufficient to enable them to prevent the Failure of Justice by reason of Mistakes and Objections of Form: Be it enacted (as follows):

Power to Court and Assessor to amend Errors.

LI. It shall be lawful for the Court and for the Assessor at all Times to amend all Defects and Errors in any Proceeding, whether there is anything in Writing to amend by or not, and whether the Defect or Error be that of the Party applying to amend or not; and all such Amendments may be made, with or without Costs, or upon such Terms as to the Court or Assessor, as the Case may be, may seem fit, and all such Amendments as may be necessary for the Purpose of determining in the existing Suit the real Question in controversy between the Parties shall be so made.

General Rules may be made.

LII. The Powers contained in and conferred by the Sections of "The Common Law Procedure Act, 1852," numbered Two hundred and twenty-three, Two hundred and twenty-four, and Two hundred and twenty-five, in the Queen's Printer's Copies of the said Act, shall and may be exercised, so far as may apply to the said Court, by the Assessor of the said Court, with the Approbation of One of the Judges of the Superior Courts of Common Law at *Westminster*.

In Cases not provided for, Rules of Superior Courts may be adopted.

LIII. In any Case not expressly provided for herein, or by the Rules regulating the Practice of the Court, the general Principles of Practice in the Superior Courts of Common Law at *Westminster* shall and may be adopted and applied to Actions and Proceedings in the said Court.

Assessor may make and alter Rules, to be confirmed by Judges of Superior Courts.

LIV. It shall be lawful for the Assessor from Time to Time to make, alter, and revoke Rules for regulating the Pleadings in the Court, as shall from Time to Time to him seem necessary and proper; provided always, that such Pleading Rules, and any Order for revoking or altering the same, shall be signed by the Assessor, and that no such Rules or Orders shall be of any Force until they shall have been allowed and confirmed by Three of the Judges of the Superior Courts of Common Law at *Westminster*.

And with respect to Affidavits sworn beyond the Limits of the said Borough, be it enacted,

Affidavits may be sworn out of the Borough.

LV. That in every Case in which according to the Practice of the said Court any Affidavit may be filed, read, or used, the same Affidavit, if made by any Person residing or being beyond the Limits of the said Borough, shall and may be made before any Judge of the Superior Courts of Law at *Westminster*, or before any Commissioner for taking Affidavits in any of such Courts, or before any Com-

missioner for taking Affidavits in the Court of Common Pleas at *Lancaster*.

And with respect to Costs, be it enacted (as follows):

Plaintiff recovering not exceeding 5*l.* in Action of Contract, and 40*s.* in Actions for a Wrong, to have no Costs.

LVI. If in any Action in Covenant, Debt, Detinue, or Assumpsit, not being an Action for Breach of Promise of Marriage, the Plaintiff shall recover a Sum not exceeding Five Pounds, or if in any Action in Trespass, Trover, or Case, not being an Action for Malicious Prosecution, or for Libel, or for Slander, or for Criminal Conversation, or for Seduction, the Plaintiff shall recover a Sum not exceeding Forty Shillings, the Plaintiff shall have Judgment to recover such Sum only, and no Costs, except in the Cases herein-after provided, and except in the Case of a Judgment by Default, and it shall not be necessary to enter any Suggestion on the Record to deprive such Plaintiff of Costs, nor shall any such Plaintiff be entitled to Costs by reason of any Privilege as Attorney or Officer of the Court, or otherwise.

Judge at Trial or other presiding Officer may certify to entitle Plaintiff to Costs.

LVII. If the Plaintiff shall in any such Action as aforesaid recover a Sum not exceeding the Sum in that Behalf herein-before mentioned by Verdict, and the Assessor or other presiding Officer before whom such Verdict shall be obtained shall certify on the Back of the Record that it appeared to him that there was a sufficient Reason for bringing the said Action in the said Court, the Plaintiff shall in such Case have Judgment to recover his Costs of Suit.

If the Court make an Order, Plaintiff to have Costs.

LVIII. If the Plaintiff in any such Action as aforesaid shall recover a Sum not exceeding the Sum in that Behalf before mentioned, where there is no Verdict, and shall make it appear to the Satisfaction of the Court on Summons that the said Action was brought for a Cause for which no Plaint could have been entered in the County Court of *Lancashire* holden at *Liverpool*, or that there was a sufficient Reason for bringing the said Action in the said Court, the Court may by Rule or Order direct that the Plaintiff shall recover his Costs, and thereupon the Plaintiff shall have Judgment to recover his Costs accordingly.

And with respect to the Examination of Witnesses unable to attend the Trial of any Issue, and of Witnesses abroad, be it enacted (as follows):

Depositions of Witnesses may be taken.

LIX. The Court may in any Action, upon the Application of any of the Parties thereto, order the Examination on Oath, upon Interrogatories or otherwise, before the Registrar, or other Person or Persons to be named in such Order, of any Witness or Witnesses in any Part of *England* or *Wales*, and by the same or any subsequent Order or Orders

Orders may give all such Directions touching the Time, Place, and Manner of such Examination, and all other Matters and Circumstances connected with such Examinations, as may appear reasonable and just.

Compelling Attendance of Witnesses or Production of Documents.

LX. When any such Order shall be made the Court may, in and by the first or any subsequent Order, command the Attendance of any Person to be named in such Order, for the Purpose of being examined, or the Production of any Writings or other Documents to be mentioned in such Order, and may direct the Attendance of any such Person to be at his own Place of Abode, or elsewhere if necessary or convenient so to do; and the Party at whose Instance such Order may have been made and issued shall have all the same Remedies against such Person, in case of Nonattendance, as he would have against any Person for Nonattendance in obedience to any Writ of Subpœna ad testificandum duly served, according to the Practice of the said Court; provided that in addition to the Service of the Order an Appointment of the Time and Place of Attendance in obedience thereto, signed by the Person or Persons appointed to take the Examination, or by One or more of such Persons, shall be also served together with or after the Service of such Order; provided also, that every Person whose Attendance shall be so required shall be entitled to the like Conduct Money and Payment for Expenses and Loss of Time as upon Attendance at a Trial; provided also, that no Person shall be compelled to produce under any such Order any Writing or other Document that he would not be compellable to produce at a Trial of the Cause.

Payment of Expenses.

As to Production of Documents.

Commission may be issued by Judge of a Superior Court to examine Witnesses abroad.

LXI. Upon the Application of any of the Parties to any Action depending in the Court, any One of the Judges of the Superior Courts at *Westminster* may order a Commission to issue for the Examination of Witnesses upon Oath at any Place or Places beyond the Limits of *England* and *Wales*, by Interrogatories or otherwise, and by the same or any subsequent Order or Orders may give all such Directions touching the Time, Place, and Manner of such Examination, and all other Matters and Circumstances connected with such Examination, as may appear reasonable and just.

Examination of Prisoners.

LXII. Any Sheriff, Gaoler, or other Officer having the Custody of any Prisoner may take such Prisoner for Examination at the Place or Places named in any such Order, by virtue of a Writ of Habeas corpus to be issued for that Purpose, which Writ shall and may be issued by any Judge under such Circumstances and in such Manner as such Judge may now by Law issue the Writ commonly called a Writ of Habeas corpus ad testificandum.

LXIII. The

Examination of Witnesses to be taken upon Oath.

LXIII. The Person or Persons authorized to take the Examinations of Witnesses by any such Rule, Order, Writ, or Commission as herein mentioned shall and may take all such Examinations upon the Oath of the Witnesses, to be administered by the Person so authorized; and if upon such Oath any Person making the same shall wilfully and corruptly give any false Evidence, every Person so offending shall be deemed and taken to be guilty of Perjury, and shall and may be indicted and prosecuted for such Offence in the County where such Evidence shall be given, or in the County of *Middlesex* if the Evidence be given out of *England*.

The Persons appointed for taking Examinations may report to the Court.

LXIV. The Registrar, or any other Person named in any such Rule or Order to take any Examination in pursuance thereof, may and he and they are hereby required to make, if need be, a special Report to the Court touching such Examination, and the Conduct or Absence of any Witness or other Person thereon or relating thereto; and the Court is hereby authorized to institute such Proceedings and make such Order and Orders upon such Report as Justice may require, and as may be instituted and made in any Case of Contempt of Court.

Costs of Order and Proceedings.

LXV. The Costs of every Rule or Order to be made for the Examination of Witnesses by virtue of the Provisions herein contained, and of the Proceedings thereupon, shall be Costs in the Cause, unless otherwise directed, either by the Judge of the Superior Court making such Order or by the Court or Assessor.

Restriction as to reading Depositions.

LXVI. No Examination or Deposition to be taken by virtue of the Provisions herein contained shall be read in Evidence without the Consent of the Party against whom the same may be offered, unless it shall appear to the Satisfaction of the Court or Assessor that the Examinant or Deponent is not in *England* or *Wales*, or is dead, or unable from permanent Sickness or other permanent Infirmity to attend the Trial, in all or any of which Cases the Examinations and Depositions, certified under the Hand of the Commissioners Registrar or other Person taking the same, shall and may, without Proof of the Signature to such Certificate, be received and read in Evidence, saving all just Exceptions.

And with respect to Interpleader, be it enacted (as follows):

Interpleader, by Defendant in Action.

LXVII. Upon Application made by or on behalf of any Defendant in any Action in the said Court, 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, and that such Defendant does not in any Manner collude with

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 may order or direct, it shall be lawful for the Registrar to issue a Summons calling upon such Third Party to appear in Court, and to state the Nature and Particulars of his Claim, and maintain or relinquish his Claim, which Summons may be served upon such Third Party in any Part of *England* or *Wales*, and upon such Summons the Court may 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 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 Rules and Orders therein as to Costs and all other Matters as may appear to be just and reasonable.

Judgment and Decision final.

LXVIII. The Judgment in any such Action or Issue as may be directed by the Court, and the Decision of the Court in a summary Manner, shall be final and conclusive against the Parties, and all Persons claiming by, from, or under them.

Claim of Party not appearing barred.

LXIX. If such Third Party shall not appear upon such Summons 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 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.

And for Relief of the Serjeant-at-Mace:

For Relief of Serjeant-at-Mace in Execution of Process against Goods.

LXX. When any Claim shall be made to or in respect of any Goods or Chattels taken or intended to be taken in Execution under the Process of the Court, or to or in respect of the Proceeds or Value thereof, by any Landlord, for Rent, or by any Person, not being the Party against whom such Process has issued, it shall be lawful to and for the Registrar, upon Application of the Serjeant-at-Mace or any of his Officers, made before or after the Return of such Process, and as well before as after any Action brought against such Serjeant-

at-Mace or any of his Officers, to issue a Summons calling before the Court as well the Party issuing such Process as the Party making such Claim, and thereupon any Action which shall have been brought in any of Her Majesty's Superior Courts of Record or in any Local or Inferior Court of Record in respect of such Claim shall be stayed; and the Court in which such Action shall have been brought, or any Judge thereof, on Proof of the Issue of such Summons, and that the Goods and Chattels were so taken in Execution, may order the Party bringing such Action to pay the Costs of all Proceedings had upon such Action after the Issue of such Summons; and the said Court shall thereupon exercise, for the Adjustment of such Claims, and the Relief and Protection of the said Serjeant-at-Mace or any of his Officers, 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, &c. may be entered of Record.

LXXI. All Rules, Orders, Matters, and Decisions to be made and done in pursuance of the before-mentioned Interpleader Provisions, 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 Five 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 according to the Nature of the Case, together with the Costs of such Entry and of the Execution; and such Writ and Writs may bear Test on the Day of issuing the same, and the Serjeant-at-Mace executing such Writ shall be entitled to the same Fees, and no more, as upon any similar Writ grounded upon a Judgment of the Court.

Powers of Superior Court or Judge thereof to be exercised by the Court.

LXXII. All the Powers exercisable by a Judge under any of the Sections of "The Common Law Procedure Act, 1852," by this Act extended and applied to the said Court, and which are not otherwise provided for by this Act, shall, as regards Matters depending in the said Court, be exercised and exercisable by the said Court.

Powers of Master of Superior

LXXIII. All the Powers exercisable by a Master under any of the Sections of "The Common Law Procedure Act, 1852," by this Act

Act extended and applied to the said Court, and which are not otherwise provided for by this Act, shall, as regards Matters depending in the said Court, be exercised and exercisable by the Registrar of the said Court. Court to be exercised by Registrar.

LXXIV. In the Construction of this Act the Expression "the Court," or the "Court of Passage," shall be understood to mean the said Court of Record for Civil Actions within the Borough existing by Prescription: Interpretation of Terms.

The Expression "the Registrar" shall include any Deputy appointed to perform all or any of the Duties of Registrar:

The Expression "Landlord" shall mean the Person entitled to the immediate Reversion of the Lands, or if Lands be holden in Joint Tenancy, Coparcenary, or Tenancy in Common, shall mean any One of the Persons entitled to such Reversion:

The Expression "Action" shall be understood to mean any Personal Action brought by Writ of Summons in the said Court.

LXXV. That the Costs of and relating to the passing this Act shall be paid out of the Borough Fund of the said Borough. Expenses of Act.

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