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VICTORIÆ REGINÆ.

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Cap. XXV.

An Act for the more easy and speedy Recovery of Small Debts within the Township of *Newton Abbot*, and other Townships, Parishes, and Places, all in the County of *Devon*. [14th *April* 1840.]

WHEREAS the several Townships of *Newton Abbot*, *Newton Bushel*, *Ashburton*, *Chudleigh*, *Dawlish*, *Moreton* otherwise *Moretonhampstead*, *Teignmouth*, and *Torquay*, and the several Parishes or Places of *Abbotskerswell*, *Ashburton*, *Bikington*, *Bishopsteignton*, *Bovey-Tracey*, *Buckland-in-the-Moor*, *Broadhempston*, *Cockington*, *Coombeintinhead* otherwise *Coombeinteignhead*, *Coffinswell*, *Chudleigh*, *Denbury*, *Dawlish*, *East Ogwell*, *East Teignmouth*, *Highweek*, *Hennock*, *Haccombe*, *Ilsington*, *Ipplepen*, *Ideford*, *Kingskerswell*, *Kingsteignton*, *Lustleigh*, *Moreton* otherwise *Moretonhampstead*, *Manaton*, *North Bovey*, *Saint Nicholas*, *Saint Mary Church*, *Stokeintinhead* otherwise *Stokeinteignhead*, *Torbrian*, *Trusham*, *Teignrace*, *Tormoham*, *Woodland*, *Widecombe-in-the-Moor*, *West Teignmouth*, *Wolborough*, and *West Ogwell*, all in the County of *Devon*, are very populous: And whereas an extensive Trade is carried on within the said several Townships, Parishes, and Places, and Credit in small Sums to a considerable Amount is frequently given by Tradesmen and Shopkeepers, and great Numbers of People residing, trading, or dealing within all or a great many of the said Townships, Parishes, and Places contract with such Tradesmen and Shopkeepers

Small Debts, which in the whole amount yearly to a very large Sum of Money; and although many of such Debtors are well able to pay their respective Debts, they often refuse to pay the same, by reason of which their respective Creditors are either obliged to forego their respective Debts, or for the Recovery thereof to incur an Expence, sometimes far exceeding, and in all Cases disproportionate to the Sums in dispute; And whereas it would be of great Advantage to the Inhabitants of the several Townships, Parishes, or Places before mentioned, and tend much to the Support and Protection of useful Credit, if an easy and speedy Method of recovering Small Debts from Debtors residing, trading, or dealing within the said Townships, Parishes, or Places were provided and established: But inasmuch as the same cannot be effected without the Aid and Authority of Parliament, 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, That the Judge and his Successors, to be appointed as herein-after mentioned, are hereby constituted a Court of Justice for the Recovery of Small Debts within the several Parishes, Townships, or Places aforesaid, by the Name of "The *Newton Abbot* Court of Requests."

Constitution and Style of the Court.

Judge of the Court to be appointed.

II. And be it enacted, That it shall be lawful for the Lord Chancellor, Lord Keeper or Lords Commissioners of the Great Seal of that Part of the United Kingdom of *Great Britain* and *Ireland* called *England*, for the Time being, at any Time after the passing of this Act, and from Time to Time, when and as any Judge to be appointed under this Act shall die, resign, or be removed, to appoint to be Judge of the said Court any Person who either shall have been called to the Bar, and shall have practised as a Barrister for at least Seven Years, or who shall be an Attorney of one of Her Majesty's Superior Courts of Common Law at *Westminster*, and shall have been certified by Three or more Judges of the said Superior Courts to the Lord Chancellor, Lord Keeper or Lords Commissioners of the Great Seal for the Time being, as a fit Person to be appointed Judge of the said Court; and it shall be lawful for the Lord Chancellor, Lord Keeper or Lords Commissioners of the Great Seal for the Time being, if he or they shall think fit, to remove any Judge of the said Court for Misbehaviour, or upon a Petition to be preferred to him or them for that Purpose by the Justices of the Peace in Quarter Sessions assembled for the County of *Devon*, or by Three Justices of the said County, residing within the several Parishes, Townships, or Places aforesaid, or some of them; and every such Judge shall be entitled to hold his Office during his good Behaviour therein, or until he shall die, resign, or be so removed.

When and where Courts shall be holden.

III. And be it enacted, That the said Court shall be holden at some convenient Place within the Market Town of *Newton Abbot* aforesaid, under the Authority of this Act, at such Times as the said Judge shall appoint, but so that the Intervals shall between the holding of any Two such Courts be in no Case more than One Calendar Month.

IV. And

In case of Illness, the Judge may appoint a Deputy.

IV. And be it enacted, That in case of the Illness or unavoidable Absence of the Judge of the said Court it shall be lawful for such Judge to appoint some other Person, being a Barrister of Seven Years standing, or an Attorney of one of Her Majesty's Superior Courts at *Westminster*, to act as his Deputy during such Illness or unavoidable Absence; and every Person so appointed shall, during the Time for which he shall be so appointed, have the same Power of deciding, determining, pronouncing Judgment, making Orders, and issuing Executions in any Actions brought before him in the said Court as the Judge by whom he shall have been so appointed.

Appointment of Clerk and other Officers.

V. And be it enacted, That the Justices of the Peace in Quarter Sessions assembled for the County of *Devon* shall from Time to Time, with the Approbation of the Judge of the said Court for the Time being, appoint a fit Person, being an Attorney of one of Her Majesty's Superior Courts of Law at *Westminster*, to be Clerk of the said Court, who shall not be the Judge nor the Partner of the Judge of the said Court; and the said Justices may remove such Clerk upon sufficient Cause, to be allowed by the Lord Chancellor, Lord Keeper or Lords Commissioners of the Great Seal, and appoint another Person in his Room; and the Judge of the Court for the Time being shall from Time to Time appoint, and at Pleasure may remove, the Bailiffs and inferior Officers of the said Court: Provided always, that if at the Commencement of this Act, or at any Time afterwards, when a Vacancy shall from Time to Time occur in the Office of Clerk to the said Court, there shall not be a Meeting of Justices in Quarter Sessions for the said County of *Devon* within the Space of One Fortnight next thereafter, it shall be lawful for the said Justices at a Meeting in Petty Sessions held at *Newton Abbot* aforesaid, and they are hereby required, to appoint, with the Approbation of the said Judge, a Provisional Clerk to the said Court, being so qualified as aforesaid, who shall perform all the Duties appertaining to the Office of Clerk to the said Court until a Clerk shall be appointed by the Justices in Quarter Sessions assembled as before mentioned.

Clerk may appoint a Deputy.

VI. And be it enacted, That in case of the Illness or unavoidable Absence of the Clerk of the said Court it shall be lawful for the said Clerk (with the Approbation of the Judge) to appoint from Time to Time a Deputy, being an Attorney of one of the Superior Courts, to act for him in the Office of Clerk of the said Court during such Illness or unavoidable Absence, and to remove such Deputy at his Pleasure; and such Deputy, during the Time for which he shall be so appointed, shall have the like Powers as if he were Clerk of the said Court for the Time being.

Justices to appoint a Treasurer.

VII. And be it enacted, That the Justices of the Peace in Quarter Sessions assembled for the said County of *Devon* shall appoint a fit Person to be a Treasurer of the said Court, who shall not be a Judge, Clerk, or other Officer of the Court; and such Justices may remove any such Treasurer, if they shall see Occasion so to do, and appoint another Person in his Room: Provided always, that Notice of the Intention to propose that any Treasurer be removed shall be given

given at the Sessions before that at which the Motion for his Removal shall be made.

Clerk and Treasurer not to be the same Person.

VIII. Provided always, and be it enacted, That it shall not be lawful for the Clerk of the said Court, or the Partner of such Clerk, or any Person in the Service or Employ of such Clerk or of his Partner, to act as Treasurer for the Purposes of this Act, nor for the Treasurer of the said Court, or the Partner of such Treasurer, or any Person in the Service or Employ of such Treasurer or of his Partner, to act as Clerk of the said Court; and if any Person shall accept both the Offices of Clerk and Treasurer for the Purposes of this Act, or if any Person, being the Partner of any such Clerk, or a Person in the Service or Employ of any such Clerk or of his Partner, shall accept the Office of Treasurer, or shall act as Deputy of the Treasurer, or in any Manner officiate for the Treasurer, or being the Partner of any such Treasurer, or a Person in the Service or Employ of any such Treasurer or of his Partner, shall accept the Office of Clerk in the Execution of this Act, or shall act as Deputy of such Clerk, or in any Manner officiate for such Clerk, every such Person so offending shall for every such Offence forfeit and pay the Sum of Fifty Pounds to any Person who shall sue for the same in any of Her Majesty's Courts of Record at *Westminster*, by Action of Debt or on the Case, or by Bill, Suit, or Information, wherein no Essoign or Protection shall be allowed.

Upon the Removal of any Treasurer, his Successor may sue for any Balance remaining in his Hands.

IX. And be it enacted, That if any Person, having resigned or having been removed from the Office of Treasurer of the said Court, shall neglect, within Twenty-one Days after Notice for such Person to account for and pay to the Treasurer of the said Court for the Time being, or to such Person as he shall appoint to receive the same, all such Sums of Money as shall remain in his Hands applicable to the Purposes of this Act, it shall be lawful for the Treasurer for the Time being, by his Name and Description of Office, to sue for and recover the same from such Person, with full Costs, Charges, and Expences of and attending the Action, in any of Her Majesty's Courts of Record at *Westminster*, by Action of Debt, in which Action it shall be sufficient for such Treasurer to declare as for Money had and received to the Use of such Treasurer for the Purposes of this Act; and the Court in which the Action shall be brought may, at the Instance of either of the Parties, refer the Account in dispute, in a summary Manner, to be audited by any Officer of the Court or other fit Person, who may examine both Plaintiff and Defendant upon Oath (which Oath the said Referee shall have Power to administer); and upon the Report of the Referee, unless either of the Parties shall show good Cause to the contrary, the Court may make a Rule, either for the Payment of such Sum as upon the Report shall appear to be due, or for staying the Proceedings in the Action, and upon such Terms and Conditions as to the Court shall appear reasonable, or the Court may order Judgment to be entered up by Confession for such Sum as upon the Report shall appear to be due.

X. And

Mode of proceeding against the Representatives of a deceased Treasurer.

X. And be it enacted, That in case of the Death of any Person during the Time that he shall be holding the Office of Treasurer, or after he shall have resigned or been removed from such Office, the Treasurer for the Time being may, by his Name and Description of Office, sue for and recover from the Executors and Administrators of such Person deceased all such Sums of Money as shall have been remaining in his Hands applicable to the Purposes of this Act, by an Action of Debt in any of Her Majesty's Courts of Record at *Westminster*, in which Action it shall be sufficient for the Plaintiff to declare that the Deceased was indebted to the Plaintiff for Money had and received to his Use for the Purposes of this Act, or that the Deceased died possessed of Money had and received for the Purposes of this Act, whereby an Action hath accrued to the Plaintiff to demand and have the same from such Executors or Administrators; and the like Action may be brought against any Executors or Administrators of Executors or Administrators; and in all such Actions the Defendant or Defendants may plead in like Manner, and avail themselves of the like Matters in Defence, as in any Action founded upon simple Contracts of the original Testator or Intestate; and the Court may refer the Account in dispute to be audited by any Officer or Person, and may proceed upon the Report of such Referee in like Manner as is herein-before mentioned.

Duties of the Clerk and Bailiffs.

XI. And be it enacted, That the Clerk of the Court shall issue all Summonses, Warrants, Precepts, and Writs of Execution, and register all Orders and Judgments of the said Court, and keep an Account of all such Summonses, Executions, and other Process of the Court, and shall take charge of and keep an Account of all Court Fees and Fines payable or paid into Court, and of all Suitors Money paid into and out of Court, and shall enter an Account of all such Fees, Fines, and Monies in a Book to be kept by him for the Purpose, which Book shall be open to the Inspection of all Parties desirous of inspecting the same, on Payment of One Shilling for each such Inspection; and the Bailiffs of the said Court shall serve all such Summonses, and execute all such Orders, Warrants, Precepts, Notices, and Writs; and a List of the Names and Places of Abode of every Bailiff appointed to execute the Process of the Court shall be put up in a conspicuous Place in the Court and in the Clerk's Office.

Treasurer to audit the Accounts.

XII. And be it enacted, That the Treasurer of the said Court shall from Time to Time, quarterly or oftener, audit or settle the Accounts of the said Clerk and other Officers of the said Court, and receive the Balance of such Monies as such Clerk and other Officers may have received under this Act belonging to the Suitors of the said Court, or applicable to the General Fund herein-after mentioned, and shall make all such Payments as it shall be requisite to make in accordance with the Provisions of this Act, and for carrying the same into effect.

Treasurer and Officers to give Security.

XIII. And be it enacted, That the Treasurer, and also every Clerk, Bailiff, and Officer of the said Court, who shall receive any Monies in the Execution of their Duty, shall give Security for such Sum and in

in such Manner and Form as the Justices of the Peace in Quarter Sessions assembled for the said County of *Devon* shall see Reason to direct, for the due Performance of their several Offices, and for the due Payment of all Monies received by them under any Provision of this Act.

Treasurer to provide Court Houses, &c.

XIV. And be it enacted, That the Treasurer of the said Court shall, as soon as conveniently may be, pay off and discharge the Costs and Expences attending the passing of this Act, and shall, when requisite, provide suitable Buildings, with all necessary Appurtenances, for holding the said Court therein under the Authority of this Act, and for the Offices necessary for carrying on the Business of the said Court; and all Lands, Tenements, and Hereditaments belonging to the said Court shall vest in the Treasurer for the Time being, and in his Successors in that Office, in Trust for the Purposes of this Act; and for the Purpose of defraying the Expences of this Act, and providing any Buildings, Lands, or Hereditaments for the Purposes aforesaid, it shall be lawful for the said Treasurer to borrow and take up at Interest such Sums of Money as he shall find to be necessary, the Amount thereof in each Case being first allowed by the Justices of the Peace in Quarter Sessions assembled for the said County of *Devon;* and the Treasurer may enter into and execute such Securities as may be required for securing Repayment of the Sums borrowed, with Interest for the same, out of the General Fund herein-after mentioned, and shall enter in a Book to be kept for that Purpose the Names of the several Persons by whom any Sum shall be advanced for the Purpose aforesaid in the Order in which each Sum shall be advanced, and every such Sum shall be paid off in the same Order.

General Fund.

XV. And be it enacted, That for raising a Fund for paying off the Costs and Expences of this Act, and providing any Court House and Offices, and any Money borrowed for the Purposes aforesaid, and the Interest due in respect thereof, the Clerk of the said Court shall demand and receive from the Plaintiff in every Suit brought in the said Court a Sum of Money after the Rate of One Shilling in the Pound on the Amount of the Debt claimed, which Sum shall be paid in all Cases by the Plaintiff upon Suit brought in the Court; and the Clerk of the Court shall keep an Account of all the Sums so raised, and shall pay over the same to the Treasurer of the said Court, and the Amount thereof shall accumulate and form a Fund to be called "The General Fund of the *Newton Abbot* Court of Requests," and shall be applied, in the first place, in Payment of all Costs, Charges, and Expences of preparing and passing this Act, and, subject thereto, in providing any Court House and Offices for the Purposes of this Act, and in Payment of the Money borrowed for the Purposes aforesaid, and the Interest thereof in such Manner as the Judge of the said Court shall direct.

Clerk to have Charge of the Court.

XVI. And be it enacted, That the Clerk of the said Court shall have the Care of the Court House and Offices of the said Court to which he is appointed under the Authority of this Act, and the Clerk shall appoint and have Power to dismiss the necessary Servants for

taking

taking charge of such Court House and Offices, and shall, with the Approbation of the said Judge, make all necessary Contracts or otherwise provide for repairing and furnishing, and for cleaning, lighting, and warming the Courts, Buildings, and Offices thereunto belonging, and for supplying the said Courts and Offices with Books and Stationery, and all other Necessaries for holding the said Courts; and the Expences thereby incurred shall be paid out of the said General Fund.

Fees to be taken according to the Schedule.

XVII. And be it enacted, That there shall be payable to the Judge of the said Court, and to the Clerk and Bailiffs thereof, on every Proceeding in the said Court, such Fees as are set down in the Schedule to this Act annexed, or as shall be from Time to Time directed to be taken by the Justices of the said County of *Devon* in Quarter Sessions assembled, and none other; and a Table of such Fees shall be hung up in some conspicuous Place in every such Court and in the Clerk's Office provided for entering Plaints; and the Fees on every Proceeding shall be paid in the first instance by the Plaintiff or Party on whose Behalf the same shall be taken, on or before such Proceeding, and the Fees upon Executions shall be paid into Court at the Time of the Issue of the Warrant of Execution, and shall be paid by the Clerk of the Court to the Bailiff upon Return of the Warrant of Execution, and not before.

Treasurer and certain other Officers to receive Salaries.

XVIII. And be it enacted, That the Treasurer of the said Court, and all other Officers and Servants employed in or about the said Court (exclusively of the Judge, Clerk, and Bailiffs as aforesaid), shall receive Salaries for their respective Services, such Salaries to be fixed from Time to Time by the Judge of the said Court, and to be paid out of the said General Fund herein provided.

Fees and Monies recovered to be accounted for to Justices.

XIX. And be it enacted, That the Clerk and Treasurer of the said Court shall from Time to Time, as often as they respectively shall be required so to do by the Judge of the said Court, deliver to him a full Account in Writing of the Fees and Monies received by them respectively under the Authority of this Act, and a like Account of all Fines paid to the Court under this Act, accounting for and deducting the reasonable Expences of levying the same, and any Allowance which the Judge may have made out of any such Fine in pursuance of the Powers herein-after contained, and a like Account of the Monies paid into and received out of Court by the Defendants and Plaintiffs in the said Court, under any Orders or Decrees of the Court, or under any Levy made under Process of the said Court, and of the Balance then remaining in Court belonging to the Plaintiffs or Defendants in the said Court; and shall also, on or before the Thirty-first Day of *January* in every Year, deliver into the Office of the Clerk of the Peace of the said County of *Devon* a like Account, verified by a Declaration of the Accuracy thereof taken before some Justice of the Peace of the said County of *Devon*, of all such Fees, Fines, and Monies as aforesaid, after making such Deductions as aforesaid, as shall have been received or paid into Court between the First Day of *January* of the preceding Year and the Thirty-first Day of *December* of the same Year; and such last-mentioned

mentioned Account shall be laid before the Justices of the Peace in Quarter Sessions assembled for the said County of *Devon* at the first Sessions after the said Thirty-first Day of *January*, and shall be examined by them; and in case it shall be found that the General Fund is more than sufficient for defraying all Charges upon it, or the Fees hereby given to the Judge, or the Clerk or Bailiffs of the Court, shall appear to be more than sufficient, it shall be lawful for such Justices to lessen the Amount of the Sum of Money to be paid for raising the said General Fund and Fees to be taken in the said Court, in such Manner as to them shall seem fit; and it shall be lawful for the said Justices, in case such Fund or Fees, or any of them, shall be found to be insufficient for the respective Purposes to which the same are applicable, again to increase such Sum of Money or Fees, so that the Scale of Fees given in the Schedule to this Act be not in any Case exceeded.

Fees may be diminished.

Jurisdiction of the Court.

XX. And be it enacted, That after the Appointment of a Judge of the said Court under this Act all Actions for the Recovery of Debts (except such as are herein-after mentioned) where the Sum sought to be recovered does not exceed the Sum of Fifteen Pounds, and is claimed from any Person liable to be summoned as a Defendant under the Provisions of this Act, may be tried and decided by the Judge of the said Court, wherever the Cause of Action may have arisen, or the Plaintiff may reside: Provided always, that the said Judge shall not decide or determine any such Action in which the Title to any Lands or Hereditaments, or to any Tithe, Toll, Fair, Market, or Franchise, shall be in question, or arising out of or relating to any Will or Settlement: Provided also, that all such Actions shall be determined according to the Laws and Statutes of that Part of the United Kingdom of *Great Britain* and *Ireland* called *England*, for the Time being, except in so far as such Laws and Statutes are altered or varied by this Act.

Process of the Court to be under Seal.

XXI. And be it enacted, That there shall be made a Seal of the said Court, and all Summonses and other Process issuing out of the said Court shall be sealed or stamped with the Seal of the Court; and every Person who shall forge the Seal or any Process of the said Court, or who shall attempt to serve or enforce any such forged Process, knowing the same to be forged, or to take the Body or Goods of any Person maliciously under any false Colour or Pretence of the Process of the said Court, shall be guilty of Felony.

Suits to be by Plaint.

XXII. And be it enacted, That it shall be lawful for any Person who now hath or hereafter shall have any Cause of Action over which the said Court has Jurisdiction under this Act against any Person residing, trading, or dealing within any of the several Parishes, Townships, or Places aforesaid, to enter in the Office of the Clerk of the said Court a Plaint in Writing, stating the Parties to and the Substance of the Action intended to be brought, and thereupon a Summons shall be issued under the Seal of the Court, which shall be in Substance according to the Form in the Schedule to this Act annexed, according to the Nature of the Plaint, and shall be served on the Defendant Fourteen Days before the Day on which the Court shall

shall be holden at which the Cause shall be tried; and Delivery of such Summons to the Defendant, or Delivery thereof to his Wife or Servant, or any Inmate at his Dwelling House or usual Place of Abode, Trading, or Dealing, shall be deemed good Service; and every such Summons shall be read over or explained, at the Time of the Service thereof, to the Defendant or other Person on whom the same shall be served as aforesaid.

Clerk not to issue Summons until a Deposit is made.

XXIII. And be it enacted, That no such Summons shall be issued unless the Plaintiff shall at the Time of entering his Plaint deposit with the Clerk of the Court for every Claim not exceeding Twenty Shillings the Sum of One Shilling, and for every Claim exceeding Twenty Shillings One Twentieth Part thereof, omitting any Sum less than Sixpence in estimating such Twentieth Part; and if upon the Day of the Return of any such Summons, or at any Continuation or Adjournment of the said Court or of the Cause for which the said Summons shall have been issued, the Plaintiff shall not appear either in Person or by some other Person on his Behalf, or appearing shall not make Proof of his Demand to the Satisfaction of the Court, it shall be lawful for the Judge to award to the Defendant a Part or the Whole of such Deposit Money, by way of Costs and Satisfaction for his Trouble and Attendance, with such further Sum as the Judge in his Discretion shall think fit, and to order and compel the Plaintiff to pay such further Sum by such Ways and Means as any Debt ordered to be paid by the same Court can be recovered; and so much of the said Deposit Money as shall not be awarded to the Defendant shall be returned, on Demand, to the Plaintiff.

Demands not to be split;

XXIV. And be it enacted, That it shall not be lawful for any Plaintiff to divide any Cause of Action into Two or more Suits, for the Purpose of bringing the same within the Jurisdiction of the said Court; but any Plaintiff having Cause of Action above the Value of Fifteen Pounds, for which a Plaint might be entered under this Act if not above the Value of Fifteen Pounds, may abandon the Excess, and thereupon the Plaintiff shall, on proving his Case, recover to an Amount not exceeding Fifteen Pounds; and the Judgment of the Court upon such Plaint shall be in full Discharge of all Demands in respect of such Cause of Action.

Minors may sue for Wages.

XXV. And be it enacted, That it shall be lawful for any Person under the Age of Twenty-one Years to prosecute any Suit in the said Court under this Act for any Sum of Money not exceeding Fifteen Pounds which may be due to him or her for Wages as a menial or other Servant, in the same Manner as if he or she were of full Age.

No Privilege allowed.

XXVI. And be it enacted, That no Privilege shall be allowed to any Person on account of his being an Attorney or Solicitor of any of Her Majesty's Courts of Record at *Westminster*, or of any other Court, to exempt him from the Jurisdiction of the Court hereby established.

One of several Persons liable may be sued.

XXVII. And be it enacted, That where any Plaintiff shall have any Debt or Demand recoverable under this Act against Two or more Persons, Partners in Trade or otherwise jointly answerable, it shall be sufficient if One of such Persons be served with the Process as herein-before directed; and Judgment may be obtained and Execution issued against such Person, notwithstanding others jointly liable may not have been served or sued; reserving always to the Person against whom Execution may issue any Right which he may have to demand Contribution from any other Person jointly liable with him.

Judge to determine all Causes under 5*l.*

XXVIII. And be it enacted, That the Judge of the said Court shall be the sole Judge to determine all Actions brought in the said Court, and all Matters and Questions of Fact and Law relating thereto, except where the Amount claimed shall exceed the Sum of Five Pounds, and either of the Parties shall require a Jury to be summoned as herein-after mentioned.

In Actions for Sums exceeding 5*l.* either Party may require a Jury.

XXIX. And be it enacted, That in all Actions brought in the said Court where the Sum of Money sought to be recovered shall exceed Five Pounds it shall be lawful for the Plaintiff or Defendant to require a Jury to be summoned to try the said Action, and in every such Case a Jury shall be summoned according to the Provisions herein-after contained to try the Action: Provided always, that the Party requiring a Jury shall give Notice to the Clerk of the said Court that he requires a Jury to be summoned Five clear Days at least prior to the holding of the Court at which the said Cause shall be tried; and the said Clerk shall cause such Notice given, either by the Plaintiff or Defendant, to be communicated to the other Party to the said Action, either by Post or by causing the same to be delivered at his usual Place of Business or Residence.

Parties requiring Juries to make a Deposit.

XXX. And be it enacted, That every Party requiring any Jury to be summoned shall at the Time of giving the Notice hereby required, and before he shall be entitled to have such Jury summoned, pay to the Clerk of the said Court such Sum of Money as the Judge shall by any general Order of the said Court direct, for or towards the Payment of the Expences of the said Jury, and the same shall be considered as Costs in the Cause: Provided always, that each Juror shall not receive less in respect of each Day's Attendance than the Sum of Five Shillings; and if the Sums of Money paid by the Parties requiring Juries shall not be sufficient for that Purpose the Deficiency shall be made up out of the said General Fund of the said Court.

Who shall be Jurors.

XXXI. And be it enacted, That the Sheriff of the County of *Devon* shall cause to be delivered to the Clerk of the said Court a List of Persons qualified to serve as Jurors in the Courts of Sessions of the Peace for that County residing within the several Parishes, Townships, or Places mentioned or described in this Act as being within the said County of *Devon*; and the Clerk of the said Court shall cause so many of the Persons named in the List as shall be needed, in the Opinion of the Judge, to be summoned in rotation to

to attend the Court at a Time and Place to be mentioned in the Summons, and shall administer or cause to be administered to such of them as shall be impannelled to try any Cause on Oath to do Justice between the several Parties who may be heard before them, according to the best of their Skill and Ability; and the Persons so summoned shall attend at the said Court at the Time mentioned in such Summons, and in default of such Attendance shall forfeit such Sum of Money as the Judge of the said Court shall direct, not exceeding the Sum of Forty Shillings for every such Default; and either of the Parties to any such Cause shall be entitled to his lawful Challenge against any of the Jurors, in like Manner as he would in any Superior Court.

Number of Jurors to be sworn.

XXXII. And be it enacted, That at the opening of the Court, and so from Time to Time as Occasion shall require, a certain Number of Jurors, not more than Five or less than Three, in the Discretion of the Judge, shall be impannelled and sworn to give their Verdicts in such Causes as shall be brought before them in the said Court.

New Trials may be granted in certain Cases.

XXXIII. And be it enacted, That all Causes brought before a Jury under the Provisons of this Act shall be decided by the Verdict of the Jury so impannelled and sworn, and Judgment shall be given accordingly, except it shall appear to the Judge that a wrong Verdict shall have been returned in consequence of some Error or Mistake on the Part of the said Jury, in which Case it shall be lawful for the said Judge, on the Application of either Party to the Action, to order a new Trial to be had in any such Cause, and in the meantime to stay the Proceedings thereon: Provided always, that if a Verdict be given for the same Party in a Second Trial, such Verdict shall be final, and no new Trial shall in any Case be granted after an absolute Order issued for Execution; provided also, that no new Trial shall be granted in any Case unless the Party applying for the same shall, prior to the same being granted, pay the Costs of the first Trial, and give such Security as shall be approved by the Judge of the said Court for the Costs of such new Trial, or, being a Defendant in such Action, for the Debt found or given by the Verdict given on such former Trial, as well as for such Costs, which Security in either Case may be taken by way of Recognizance or otherwise, as the Judge shall think fit.

Proceedings on hearing the Plaint.

XXXIV. And be it enacted, That on the Day named in the Summons the Plaintiff shall appear in the said Court in Person, or by some Person on his or her Behalf, and thereupon the Defendant shall be required, by himself or herself, or by some Person on his or her Behalf, to answer such Plaint, and on Answer being made in Court the Court shall proceed in a summary Way to try the Cause, and give Judgment, without further Pleading or formal Joinder of Issue.

No Evidence to be given of Matter not in Summons.

XXXV. And be it enacted, That no Evidence shall be given by the Plaintiff on the Trial of any such Cause as aforesaid of any Demand or Cause of Action except such as shall be stated in the Summons hereby directed to be given.

XXXVI. And

Notices to be given of special Defences.

XXXVI. And be it enacted, That all Defendants in the said Court shall be allowed to set off any Debt or Demand claimed to be due to them from the Plaintiffs, or to set up by way of Defence, and to claim and have the Benefit of, any Statute of Limitations, or any Discharge under any Statute of Bankruptcy, or any present or future Act for the Relief of Insolvent Debtors: Provided always, that no such Defence shall be admitted on the Hearing or Trial of any Cause under the Jurisdiction given by this Act, unless Notice thereof in Writing shall have been given to the Clerk of the said Court, or left at his Office Five clear Days at least previous to the Hearing of the said Cause; and the said Clerk shall communicate the same to the Plaintiff by the Post, or by causing the same to be delivered at his usual Place of Abode or Business.

Defendant may pay Money into Court.

XXXVII. And be it enacted, That it shall be lawful for the Defendant in any Action brought under the Provisions of this Act, at any Time, not being less than Five clear Days before the Day appointed for the Hearing or Trial thereof, to pay into Court such Sum of Money as the Defendant shall think a full Satisfaction for the Demand of the Plaintiff, together with the Costs incurred by the Plaintiff up to the Time of such Payment; and Notice of such Payment shall be communicated by the Clerk of the said Court to the Plaintiff by Post, or by sending the same to his usual Place of Abode or Business; and the said Sum of Money shall be paid to the Plaintiff; and all Proceedings in the said Action shall be stayed unless the Plaintiff shall, within Three Days after the Receipt of Notice of such Payment, signify to the Clerk of the said Court his Intention to proceed for the Remainder of the Demand claimed, and in such Case the Action shall proceed as if the Plaint had originally been entered for such Remainder only: Provided always, that if the Plaintiff shall recover no further Sum in the Action than such Sum as shall have been paid into Court under the Provision herein-before contained, such Plaintiff shall pay the Defendant all the Costs, Charges, and Expences incurred by him in the said Action after such Payment as aforesaid; and such Costs, Charges, and Expences shall be settled by the Court, and shall be recovered by the Defendant by such Ways and Means as any Debt ordered to be paid by the said Court can be recovered.

Judge to make Rules and frame Forms of Procedure.

XXXVIII. And be it enacted, That the Judge of the Court shall have Power, from Time to Time (as he shall see fit), subject to the Approval of any Two Judges of Assize for the said County of *Devon* for the Time being, to make Rules for regulating the Practice of the said Court, and to frame Forms for every Proceeding in the Court for which he shall think it necessary that a Form be provided, and from Time to Time to alter any such Rules or Forms, and also to alter all or any of the Forms given in the said Schedule.

Proceedings if Defendant does not appear.

XXXIX. And be it enacted, That if on the Day named in the Summons the Defendant shall not appear as aforesaid, nor sufficiently excuse his or her Absence, or shall neglect to answer, the Judge may, upon due Proof of the Service of the Summons, proceed to the Hearing or Trial of the Cause on the Part of the Plaintiff only, and

the Order, Verdict, or Judgment thereupon shall be as valid as if both Parties had attended: Provided always, that the said Judge may in any such Case, at the next or following Court, set aside any Judgment so given as last aforesaid, and the Execution thereupon, under such Terms as he may think fit to impose, upon sufficient Cause shown to him for that Purpose, and grant a new Trial or Rehearing of the Cause upon the Defendant paying the Costs of the first Trial or Hearing, and giving such Security for the Costs of the new Trial or Rehearing as to the Judge shall seem meet, which Security may be taken by way of Recognizance or otherwise as such Judge shall direct: Provided also, that if it shall appear to the said Judge at the Time appointed for the Hearing or Trial of the said Cause that the Defendant is unable to attend the Court from any reasonable Cause, the Trial or Hearing of such Cause shall be adjourned to the next or following Court: Provided also, that the Judge may in any Case make Orders for granting Time to the Plaintiff or Defendant to proceed in the Prosecution or Defence of the Suit.

Parties may be examined on Oath.

XL. And be it enacted, That on the Hearing or Trial of any such Action the Parties to the same, and all other competent Witnesses, may be examined upon Oath touching the Matters in dispute.

Judge to administer Oath.

XLI. And be it enacted, That it shall be lawful for the Judge of the said Court for the Time being and he is hereby authorized and required to administer an Oath to or receive the Affirmation of any Person before he shall be examined on the Hearing or Trial of any Action or other Proceeding in the said Court.

Persons giving false Evidence to be punished.

XLII. And be it enacted, That every Person who, in any Examination upon Oath or solemn Affirmation before the Judge of the said Court, shall wilfully and corruptly give false Evidence, shall be liable to the Penalties of Perjury.

Summonses to Witnesses.

XLIII. And be it enacted, That either of the Parties to the Suit may obtain at the Office of the Clerk of the said Court Summonses to Witnesses, with or without a Clause requiring the Production of Books, Papers, and Writings in their Possession or Control, and in any such Summons any Number of Names may be inserted, and Service of any such Summons by the Bailiff of the said Court, or by any Constable or Peace Officer within his Jurisdiction, shall be good Service; and every Person resident within any of the several Parishes, Townships, or Places aforesaid, on whom any such Summonses shall have been served, either personally or by leaving the same at his or her usual Place of Abode, and to whom Payment or Tender of Payment of his or her Expences, on such Scale of Allowance as shall be from Time to Time settled by the Judge at the same Time, shall have been made, and who shall refuse or neglect, without sufficient Cause, to appear, or to produce any Books, Papers, or Writings required by such Summons to be produced, and also every Person in Court, so resident as aforesaid, called upon to give Evidence, who shall refuse to be sworn and give Evidence, shall for-

feit and pay such Fine, not exceeding Five Pounds, as the Judge shall set on him or her, and such Fine shall be recoverable in the said Court; and every Person not resident in any of the several Parishes, Townships, or Places aforesaid, on whom any such Summons shall have been served in manner aforesaid, and to whom Payment or Tender of Payment of his reasonable Expences shall at the same Time have been made, and who shall refuse or neglect, without sufficient Cause, to appear, or to produce any Books, Papers, or Writings required by such Summons to be produced, and also every Person in Court, not resident within any of the several Parishes or Places aforesaid, who shall be called on to give Evidence, and shall refuse to be sworn and give Evidence, shall forfeit and pay any Sum not exceeding Five Pounds, to be recovered as any Fine or Penalty for which no special Provision is made by this Act is hereby directed to be recovered, and to be paid to the Clerk of the said Court; and the Whole or any Part of every such Fine, in the Discretion of the Judge, after deducting the Costs, shall be applicable towards indemnifying the Party injured by such Refusal or Neglect, and the Remainder thereof shall go and be applicable as the General Fund of the said Court; provided that no Person be summoned as a Witness to attend the said Court who shall be resident at a greater Distance than Twenty Miles from the Place where the same is holden.

Fines how to be levied and accounted for.

XLIV. And be it enacted, That any Fine imposed by the said Court under the Authority of this Act may be levied by the same Process as any Debt recovered in the said Court, and shall be accounted for as herein provided.

Costs to abide the Event of the Action.

XLV. And be it enacted, That all the Costs of or attending any Action in the said Court, not herein otherwise provided for, shall abide the Event of the Action, except such Costs as shall be occasioned by the Default or for the Convenience of any Party, and such last-mentioned Costs shall be paid by or apportioned between the Parties to such Action in such Manner as the Judge shall think fit.

Judgments or Plaints, how far final.

XLVI. And be it enacted, That no Plaint entered in the said Court, nor any Order, Judgment, or Proceeding therein, shall be removed into any Superior Court by any Writ or Process whatsoever, except by Leave of a Judge of one of the Superior Courts at *Westminster*, and then only in Cases where the Debt claimed shall exceed Five Pounds; and in all such Cases it shall be lawful for any such Judge, by an Order in Writing under his Hand, to stay all Proceedings in the said Court hereby created, upon such Terms, as to giving Security for the Costs incurred in the said Court hereby created, and for the Costs which may be incurred in any Action to be brought in the Superior Courts for the same Matter, or otherwise, as such Judge shall direct, which Security may be taken by way of Recognizance or otherwise, as such Judge shall think fit: Provided always, that the Provisions contained in an Act of Parliament passed in the Second Year of Her present Majesty, intituled *An Act for abolishing Arrest on Mesne Process in Civil Actions, except in certain Cases; for extending the Remedies of Creditors*

Provisions of Imprisonment for Debt Act to be applicable

ditors against the Property of Debtors; and for amending the Law for the Relief of Insolvent Debtors in England, relating to any Writ of Fieri facias to be sued out of any Inferior Court, and to the Removal into any one of Her Majesty's Superior Courts of Record at *Westminster* of any Judgment, Rule, or Order of any Inferior Court of Record in which at the Time of the passing of that Act a Barrister of not less than Seven Years standing should act as Judge, Assessor, or Assistant on the Trial of Causes, and to the Force and Effect of any such Judgment, Rule, or Order, when so removed, shall, notwithstanding any thing herein contained, be applicable and applied to Executions against Goods, Chattels, and Personal Estate issued by the Court by this Act established, in pursuance of the Provisions herein contained, and to the Removal into any one of the said Superior Courts of Record of Judgments, Rules, and Orders for the Payment of Money exceeding the Sum of Five Pounds made or given by the said Court hereby established, and to the Force and Effect of such Judgments, Rules, and Orders, when so removed, in as full and ample a Manner as if the said Court hereby established had been an Inferior Court of Record, in which, at the Time of the passing of the said recited Act, a Barrister of not less than Seven Years standing had acted as Judge, Assessor, or Assistant in the Trial of Causes.

to Executions under this Act.

XLVII. And be it enacted, That no Barrister, Attorney, or other Person shall be entitled of Right to be heard to argue any Question as Counsel or Advocate for any other Person in any Proceeding in the said Court; and no Person, not being an Attorney admitted to one of Her Majesty's Superior Courts at *Westminster*, shall be entitled to have or recover any Sum of Money for appearing or acting on behalf of any other Person in the said Court; and no Attorney shall be entitled to have or recover for such appearing or acting any Sum of Money unless the Sum recovered shall be more than Forty Shillings, or to have or recover more than Six Shillings and Eightpence for his Fees and Costs unless the Sum recovered shall be more than Five Pounds, or more than Ten Shillings and Sixpence in any Case: Provided always, that the Expence of employing any Attorney or other Advocate, either by the Plaintiff or Defendant, shall not be considered as Costs in the Cause, unless the Judge shall so order.

No Person to act, of Right, as Advocate.

None but Attorneys to act in Court.

Their Fees.

XLVIII. And be it enacted, That the Clerk of the said Court shall cause a Note of all Plaints and Summonses, and of all Orders, and of all Judgments and Executions, and Returns thereto, and of all Fines, and of all other Proceedings of the said Court, to be fairly entered from Time to Time in a Book which shall be kept at his Office, and the said Clerk shall sign his Name at the Bottom of every Page of the said Book; and such Entries in the said Book so signed, or a Copy thereof, purporting to be signed and certified as a true Copy by the said Clerk, shall at all Times be admitted in all Courts and Places whatsoever as Evidence of such Entry or Entries, and of the Proceeding referred to by such Entry or Entries, without any further Proof.

Minutes of Proceedings to be kept.

XLIX. And

Justices to direct how the Accounts shall be kept.

XLIX. And be it enacted, That the Justices of the Peace in Quarter Sessions assembled for the said County of *Devon* shall from Time to Time make such Rules as to them shall seem meet for securing the Balances and other Sums of Money belonging to the Suitors of the said Court in the Hands of any Officers of the said Court, and for the due accounting for and Application of all such Balances and other Sums of Money, and also for keeping and auditing the Accounts of the said Court, and shall direct such Sums to be paid out of the General Fund of the said Court for the Expence of auditing such Accounts as to them shall seem proper.

A List to be made out annually of unclaimed Money.

L. And be it enacted, That the Clerk of the said Court shall, in the Month of *January* in each Year, make out a correct List of all Sums of Money which shall have been paid into Court, and which shall have remained unclaimed for the Space of Twelve Calendar Months before the making out of such List, specifying the Names of the Parties who paid such Sums of Money, and also the Names of the Parties for whom or on whose Account the same were so paid into Court; and such List shall be put up and remain in some conspicuous Part of the said Court; and no Person shall be entitled to claim any Sum which may have remained in Court unclaimed for the Space of Six Years, but all such Sums shall be applicable as Part of the General Fund of the said Court.

Court may award Execution against Body or Goods.

LI. And be it enacted, That the said Court may make Orders directing at what Time or Times and in what Proportions any Sum and Costs recovered by Judgment of the said Court shall be paid, and at the Request of the Party entitled to the same may order such Sum to be paid into Court; and whenever the Court shall have given or made a Judgment or Order for the Payment of Money it shall be lawful for the said Court immediately, or in case of Default or Failure of Payment thereof at the Time or Times and in the Manner thereby directed, to award Execution, either against the Body or against the Goods and Chattels of the Party against whom such Order shall be made, and thereupon the Court shall, at the Request of the Party prosecuting such Order for the Payment of Money, issue a Warrant of Execution under the Seal of the Court to one of the Bailiffs of the Court, who, by virtue of such Warrant, is hereby empowered to take the Body of the Defendant into Execution, or to levy, by Distress and Sale of the Goods and Chattels of such Party within the Jurisdiction of the same Court, such Sum of Money and Costs as shall be so ordered; and if the Court shall have made any Order for Payment of any Sum by Instalments, Execution upon such Order shall not issue against the Party until after Default in Payment of some Instalment according to such Order, and it shall then be lawful for the Judge to issue Execution or successive Executions for the Whole or such Portions of the said Sum of Money and Costs then remaining unpaid as he shall think fit.

Power to suspend Execution in certain Cases.

LII. Provided always, and be it enacted, That if it shall at any Time appear to the Satisfaction of the Court, by the Oath or Affirmation of any Person or otherwise, that any Defendant is unable, from Sickness or unavoidable Accident, to pay and discharge the Debt

Debt recovered against him, or any Instalment thereof ordered to be paid as aforesaid, it shall be lawful for the Court, in its Discretion, to suspend or stay any Judgment, Order, or Execution made or issued in such Action until it shall appear, by the like Proof as aforesaid, that such Defendant is able to pay such Debt or such Instalment thereof as aforesaid.

Time of Imprisonment.

LIII. And be it enacted, That every Person who shall be taken in Execution upon any such Warrant shall be committed to the Custody of the Keeper of any Common Gaol in the said County of *Devon*, and shall remain in Custody for such Time from the Day of his Commitment to Prison as shall be mentioned in the Warrant, not exceeding Twenty Days, or until he, she, or they shall perform and obey the Order of the Court as herein-before directed, or to be discharged by due Course of Law: Provided always, that no Person shall remain in Custody under any such Warrant or any Number of such Warrants as aforesaid longer than Forty Days at any One Time.

Treasurer to pay Allowance to Prisoners.

LIV. And be it enacted, That the Treasurer of the said Court shall allow and pay out of the General Fund of the said Court such reasonable Sums as the Justices of the Peace in Quarter Sessions assembled for the said County of *Devon* shall from Time to Time determine to be fit and proper for keeping and maintaining in Prison the Persons committed to Prison under any such Warrants as aforesaid.

Judge may allow Maintenance to sick or poor Prisoners.

LV. And be it enacted, That if it shall appear to the Judge of the said Court, on Application being made to him, that Relief and Maintenance are necessary for the Support of any One or more of the Prisoners who from Sickness or some other Cause are then unable to maintain themselves, the Judge shall order the Treasurer of the Court to allow and pay out of the Funds of the said Court, to every such Prisoner, such Sum of Money, not exceeding Sixpence *per* Day, as shall appear to the Judge to be necessary for the Relief of every such Prisoner.

Regulating the Sale of Goods taken in Execution.

LVI. And be it enacted, That no Sale of any Goods which shall be taken in manner aforesaid shall take place until after the End of Eight Days at least next following the Day on which such Goods shall have been so taken, unless upon the Request in Writing under the Hand of the Party whose Goods shall have been taken; and until such Sale the Goods shall be deposited by the Bailiff in some fit Place to be appointed by the Clerk of the said Court; and it shall be lawful for the Judge of the Court, from Time to Time, and when and as often as he shall think proper, to appoint such and so many sworn Brokers and Appraisers, for the Purpose of selling or valuing any Goods, Chattels, or Effects taken in Execution under this Act, as shall appear to him to be necessary, and to direct Security to be taken from each of them for such Sum and in such Manner as the Judge shall think fit, for the faithful Performance of their Duties without Injury or Oppression, and the Judge may dismiss any Broker or Appraiser so appointed.

Distresses to be within the Provisions of 7 & 8 G. 4. c. 17.

LVII. And be it enacted, That every such Distress shall be taken to be within all the Provisions of an Act passed in the Eighth Year of the Reign of King *George* the Fourth, intituled *An Act for extending the Provisions of an Act made in the Fifty-seventh Year of King* George *the Third, for regulating the Costs of certain Distresses.*

Cross Judgments.

LVIII. And be it enacted, That if there shall be Cross Judgments between the Parties, Execution shall be taken out by that Party only who shall have obtained Judgment for the larger Sum, and so much only as shall remain after deducting the smaller Sum, and Satisfaction for the Remainder, shall be entered, as well as Satisfaction on the Judgment for the smaller Sum, and if both Sums shall be equal Satisfaction shall be entered upon both Judgments.

How Execution may be had out of the Jurisdiction.

LIX. And be it enacted, That it shall be lawful for any Bailiff of the said Court, to whom a Warrant or Precept of Execution shall be directed against the Body or Goods of any Defendant according to the Provisions of this Act, in case he shall not find the Defendant, or sufficient Goods and Chattels of the Defendant, within the Jurisdiction of the said Court, to apply to any Justice of the Peace acting for the Division or Place in which such Defendant or his Goods and Chattels shall be out of the Jurisdiction of the said Court; and such Justice of the Peace is hereby authorized and required, upon such Officer producing such Warrant or Precept, and making Oath (which such Justice is hereby empowered to administer) that the same has been duly issued out of the said Court, and that the Person or Goods and Chattels (as the Case may be) of the Defendant is or are not to be found within the Jurisdiction of the said Court, but is or are believed by such Officer to be within the Division or Place where such Justice acts, to sign his Name on the Back of such Warrant or Precept; and thereupon such Bailiff shall have Power to take the Body or Goods and Chattels of such Defendant (as the Case may be), wheresoever the same shall be found within such Division or Place, and deal therewith in like Manner as if the same had been taken within the Jurisdiction of the said Court; and all Constables and other Peace Officers are hereby required to be aiding within their respective Jurisdictions in the Execution of the Warrant or Precept so endorsed as aforesaid.

Execution to be superseded on Payment of Debt and Costs.

LX. And be it enacted, That upon every Warrant of Execution awarded against the Body or against the Goods and Chattels of any Person whomsoever the Clerk of the Court from which such Execution shall issue shall cause to be endorsed the Sum of Money and Costs adjudged; and if the Party against whom such Execution shall be awarded shall, before an actual Sale of the Goods and Chattels, or before he is apprehended, or before the Expiration of the Term of his Imprisonment, as herein mentioned, pay or cause to be paid or tendered unto the Clerk of the said Court such Sum of Money as aforesaid, or such Part thereof as the Plaintiff shall agree to accept in full of his Debt, together with the Fees herein directed to be paid, the Execution shall be superseded, and the Body or Goods and Chattels of the said Party shall be discharged and set at liberty.

LXI. And

Power of fining for Contempt.

LXI. And be it enacted, That if any Person shall wilfully insult the Judge or any Juror or Officer of the said Court for the Time being, during their Sitting or Attendance in Court, or on going to or returning from the said Court, or shall wilfully interrupt the Proceedings of the said Court, it shall be lawful for any Bailiff or Officer of the said Court, with or without the Assistance of any other Person, by the Order of the Judge, to take such Offender into Custody, and the Judge may impose upon any such Offender a Fine not exceeding the Sum of Five Pounds.

Remedies against Bailiffs and otherOfficers.

LXII. And be it enacted, That if any Bailiff or Officer of the said Court, acting under Colour or Pretence of the Process of the said Court, shall be guilty of Extortion or Misconduct, or shall not duly pay or account for any Money levied by him under the Authority of this Act, it shall be lawful for the said Court at its Sitting, if the Party aggrieved shall think fit to complain thereto, to inquire into such Matter in a summary Way, and for that Purpose to summon and enforce the Attendance of all necessary Parties, if resident within any of the Parishes, Townships, or Places aforesaid, or within Twenty Miles of the Place where the said Court is holden, and to make such Order thereupon for the Repayment of any Money extorted, or for the due Payment of any Money so levied as aforesaid, and for the Payment of such Damages and Costs to the Parties aggrieved, as the Court shall think just; and in default of Payment of any Money so ordered to be paid by such Bailiff within the Time specified for Payment thereof in such Order, it shall be lawful for the Judge of the said Court, by Warrant under his Hand and Seal, to cause such Sum to be levied by Distress and Sale of the Goods of the Offender, together with the reasonable Charges of such Distress and Sale, and in default of such Distress to commit the Offender to any Common Gaol or Prison in the said County of *Devon* for any Period not exceeding Three Calendar Months.

Officers taking any Fees besides those allowed to be discharged.

LXIII. And be it enacted, That if any Clerk, Bailiff, or other Officer employed in putting this Act or any of the Powers thereof in execution shall exact, take, or accept any Fee or Reward whatsoever, other than and except such Fees as are or shall be appointed and allowed respectively as aforesaid, for or on account of any thing done or to be done by virtue of this Act, or on any Account whatsoever relative to putting this Act into execution, every such Person so offending shall, upon Proof thereof before the said Court, or upon Verdict or Judgment had against him in such Action as next herein-after mentioned, be for ever incapable of serving or being employed under this Act in any Office of Profit or Emolument, and shall also be liable for Damages as herein provided.

For the Protection of the Officers of the Court.

LXIV. And be it enacted, That if any Claim shall be made in respect of any Goods or Chattels taken or intended to be taken in Execution under any Process of the said Court, or in respect of the Proceeds or Value thereof, by any Person not being the Party against whom such Process has issued, and if the Claim so made shall not exceed the Sum of Fifteen Pounds, it shall be lawful for the Judge of the

the said Court, upon Application of the Officer charged with the Execution of such Process, and as well before as after any Action brought against such Officer, to summon before the said Court as well the Party issuing such Process as the Party making such Claim, if resident, trading, or dealing within any of the several Parishes, Townships, or Places aforesaid, and thereupon to adjudicate and determine upon such Claim, and to make such Order between the Parties in respect thereof, and of the Costs of the Proceedings, as to the said Judge shall seem fit, and to enforce such Order in like Manner as any Order made in any Suit brought in such Court; and if the Amount of the Claim made as aforesaid shall exceed the Sum of Fifteen Pounds, or if the Party making such Claim shall not be residing, trading, or dealing within any of the Parishes, Townships, or Places aforesaid, it shall be lawful for such Officer, if any Action has been brought in any of Her Majesty's Superior Courts at *Westminster*, to apply to such Court, or to one of the Judges of such Court, and if no such Action has been brought, then to apply to any one of Her Majesty's Superior Courts, or to any Judge of the said Courts; and upon such Application being so made the Court or Judge to which or to whom it shall be made shall use all the Powers for the Adjustment of such Claim, and for the Relief and Protection of such Officer, as on the Application of any Sheriff or other Officer in the Case of Process issuing out of such Court by virtue of an Act passed in the Second Year of His late Majesty King *William* the Fourth, intituled *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:* Provided always, that if it shall appear to such last-mentioned Court that the Value of the Goods or Chattels claimed as aforesaid, or of the Rights of the Party making any Claim in respect thereof, do not exceed the Sum of Fifteen Pounds, and that the Party making such Claim was, at the Time of making the same, residing, trading, or dealing within any of the Parishes, Townships, or Places aforesaid, the Court to which such Application as aforesaid shall be made, or any Judge thereof, may order the Party so claiming to pay the Costs of all the Proceedings had as aforesaid in the Superior Court.

1 & 2 W. 4. c. 58.

Concurrent Jurisdiction with the Courts at Westminster and the other Courts.

LXV. And be it enacted, That all Actions and Proceedings which before the passing of this Act might have been brought in any of Her Majesty's Courts at *Westminster*, or in the County Court of the Sheriff of *Devon*, or in any Hundred Court, Court Leet, Court Baron, Manor Court, or other Court whatsoever having any Jurisdiction within the Limits of the Court constituted by this Act, may still, notwithstanding this Act, and the Powers hereby granted, be brought and determined in any such Court, at the Election of the Party suing or proceeding, in the same Manner as if this Act had not been passed.

For the Recovery and Application of Penalties.

LXVI. And be it enacted, That all Penalties, Forfeitures, and Fines by this Act inflicted or authorized to be imposed (the Manner of levying, recovering, and applying whereof is not hereby otherwise particularly directed,) shall, upon Proof before any Justice or Justices of the Peace for the County or Place where the Offender shall reside

or be, or the Offence by him committed, either by his Confession, or by the Oath of any credible Witness or Witnesses, be levied, together with the Costs attending the Information and Conviction, by Distress and Sale of the Goods and Chattels of such Offender, by Warrant under the Hand and Seal of such Justice or Justices; and the Overplus (if any,) after such Penalties, Forfeitures, and Fines, and the Charges of such Distress and Sale, are deducted, shall be returned, upon Demand, unto the Owner of such Goods and Chattels; and the Monies arising by such Penalties, Forfeitures, and Fines respectively, when paid and levied (if not otherwise directed to be applied by this Act), shall be from Time to Time paid to the Clerk of the said Court, and shall be applied in aid of the General Fund of the said Court; and in case such Penalties, Forfeitures, and Fines respectively shall not be paid forthwith upon Conviction, then it shall be lawful for such Justice or Justices to order the Offender so convicted to be detained in safe Custody until Return can be conveniently made to such Warrant of Distress, unless the said Offender shall give sufficient Security, to the Satisfaction of such Justice or Justices, for his Appearance before him or them on such Day as shall be appointed for the Return of such Warrant of Distress, such Day not being more than Eight Days from the Time of taking any such Security, and which Security such Justice or Justices is and are hereby empowered to take by way of Recognizance or otherwise, as to him or them shall seem right and proper; but if upon the Return of such Warrant it shall appear that no sufficient Distress can be had thereupon, or in case it shall appear to the Satisfaction of such Justice or Justices, either by the Confession of the Offender or otherwise, that he hath not Goods and Chattels within the Jurisdiction of such Justice or Justices sufficient whereon to levy all such Penalties and Forfeitures, Costs and Charges, such Justice or Justices may, at his or their Discretion, without issuing any Warrant of Distress, commit the Offender to the Common Gaol or Prison of the County or Place where such Offender shall live or reside, there to remain for any Time not exceeding Three Calendar Months, unless such Penalties, Forfeitures, and Fines, and all reasonable Charges attending the Recovery thereof, shall be sooner paid and satisfied.

Justices may proceed by Summons in the Recovery of Penalties.

LXVII. And be it enacted, That in all Cases in which by this Act any Penalty or Forfeiture is made recoverable by Information before a Justice of the Peace, it shall be lawful for any such Justice as aforesaid to whom Complaint shall be made of any Offence against this Act to summon before him the Party complained against, and on such Summons to hear and determine the Matter of such Complaint, and on Proof of the Offence to convict the Offender, and to adjudge him to pay the Penalty or Forfeiture incurred, and to proceed to recover the same, although no Information in Writing shall have been exhibited before him; and all such Proceedings by Summons without Information in Writing shall be as valid and effectual, to all Intents and Purposes, as if an Information in Writing had been exhibited.

Form of Conviction.

LXVIII. And be it enacted, That in all Cases where any Conviction shall be had for any Offence or Offences committed against this

this Act, the Form of Conviction shall be in the Words or to the Effect following; (that is to say,)

'County of } BE it remembered, That on this Day of
'to wit. } in the Year of our Lord
'*A. B.* is [*or* are] convicted before of Her Majesty's
'Justices of the Peace for the County of or before the
'Judge appointed under an Act passed in the Third Year of the
'Reign of Her Majesty Queen *Victoria*, intituled [*here insert the*
'*Title of this Act*], of having [*state the Offence*]; and I [*or* we] the
'said do adjudge him [her *or* them] the said
'to forfeit or pay for the same the Sum of
'[*or* be committed to for the Space
'of], such Offence being contrary to the Provisions
'of the said Act. Given under my Hand and Seal [*or* our Hands
'and Seals], the Day and Year aforesaid.'

Distress not unlawful for want of Form.

LXIX. And be it enacted, That where any Distress shall be made for any Sum of Money to be levied by virtue of this Act the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers, on account of any Defect or Want of Form in the Information, Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers from the beginning on account of any Irregularity which shall afterwards be done by the Party or Parties so distraining, but the Person or Persons aggrieved by such Irregularity shall and may recover full Satisfaction for the special Damage in an Action upon the Case.

Plaintiff not to recover after Tender of Amends.

LXX. And be it enacted, That no Plaintiff shall recover in any Action against any Person for any thing done in pursuance of this Act if Tender of sufficient Amends shall have been made before such Action brought, or if after Action brought a sufficient Sum of Money shall have been paid into Court, with Costs, by or on behalf of the Defendant.

This Act to cease on the passing of any general Act.

LXXI. Provided always, and be it enacted, That at the Expiration of Six Calendar Months next after any general Act shall be passed for the Recovery of Small Debts, and the Operation of which general Act shall be inconsistent with the Powers given by this Act, as to the said several Parishes, Townships, or Places in this Act mentioned, every Clause, Matter, and Thing in this Act contained, which shall extend or be construed to extend to give to the said Court or Judge any local or separate Jurisdiction, shall cease and determine; and no Judge or Officer of the said Court appointed under this Act shall be deemed to be entitled to any Compensation for the Loss of his Office by reason of the passing of such general Act.

Property belonging to the Court to be transferred according to

LXXII. And be it enacted, That in case any such general Act as last aforesaid shall be passed the Treasurer for the Time being acting in the Execution of this Act shall with all convenient Speed after the passing thereof cause any Messuages, Lands, Tenements,

or Hereditaments which may at that Time be the Property of the said Court to be sold to any Person or Persons whomsoever, by public Auction or private Contract, for the best Price in Money that can be reasonably had or gotten for the same; and the Money arising from such Sale, together with any Money or Securities for Money, or other Property or Effects of any Description whatever, then in the Hands or under the Control of the said Treasurer or Court, shall be applied by the said Treasurer, under the Directions of the said Court, in paying and discharging all Claims and Demands to which such Money or Securities may be liable; and the Surplus thereof shall, at or before the Expiration of Six Calendar Months from the passing of such Act, be paid or transferred to such Persons and in such Manner as in and by any such Act shall be directed or specified; and in case any such Messuages, Lands, Tenements, or Hereditaments shall not have been sold within the said Six Calendar Months, then the same shall, at the Expiration of that Period, cease to be the Property of the said Court, and shall belong to and absolutely vest in the Person or Persons who, under or by virtue of any such general Act as aforesaid, shall be entitled to the same, or to the Proceeds arising from the Sale thereof. the Provisions of any such general Act.

LXXIII. And be it enacted, That in the Construction of this Act the Word "Person" shall be taken to comprehend a Body Politic, Corporate, or Collegiate, as well as an Individual; and that every Word importing the Singular Number only shall extend and be applied to several Persons, Matters, or Things as well as One Person, Matter, or Thing; and every Word importing the Plural Number shall comprise and be applied to One Person, Matter, or Thing as well as several Persons, Matters, or Things; and every Word importing the Masculine Gender only shall extend and apply to Females as well as Males; and where the Word "Partner" shall be used the same shall be held to apply only to Partnership in the usual Business of the Parties referred to, and not to Shareholders in any Joint Stock Undertaking; unless it be in any of the Cases aforesaid specially directed or provided for, or there be something in the Subject or Context repugnant to such Construction. Interpretation Clause.

LXXIV. And be it enacted, That this Act may be altered or repealed during the present Session of Parliament, either by an Act passed for the express Purpose of altering or repealing the same, or by any Act of which the Provisions shall be inconsistent with the Provisions herein contained. Act may be altered during the present Session.

LXXV. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others. Public Act.

The

The SCHEDULE to which the foregoing Act refers.

Summons.

Demand - £
Costs - £

£

NEWTON ABBOT COURT OF REQUESTS.

I do hereby summon you to appear at the next Court to be holden at Newton Abbot on next, the Day of at of the Clock of the same Day, to answer to the Complaint of who saith that you [*here insert shortly the Grounds of the Action*]; and in case you fail to appear the Complainant will obtain Judgment and Execution against you by your Default.

Dated the Day of in the Year of our Lord One thousand eight hundred and

To Mr.

Order for Payment of a Sum recovered.

Newton Abbot Court of Requests, holden at on the Day of 18 .

Between
Plaintiff,
and
Defendant.

It is ordered, That the Defendant do pay to the Plaintiff the Sum of £ Debt, and Costs, on the next after Notice of this Order.

Entered, Clerk.

By the Court.

Order for Payment by Instalments.

Newton Abbot Court of Requests, holden on the Day of 18 .

Between
Plaintiff,
and
Defendant.

It is ordered, That the Defendant do pay to the Plaintiff the Sum of £ on the next after Notice of this Order, and the further Sum of on every following until Payment of the full Sum of £ Debt, and Costs, be satisfied.

At per Week.

Entered, Clerk.

By the Court.

Warrant against Goods.

L. S.

NEWTON ABBOT COURT of REQUESTS.

Debt - £
Costs - £
£

To one of the Bailiffs of the said Court.

YOU are hereby commanded to levy and cause to be made of the Goods and Chattels of the Sum of Pounds Shillings and pence, so that you have the said Money at the next Court of Requests to be holden at Newton Abbot to satisfy for the Debt and Costs adjudged to by the said Court. Therein fail not, as you will answer for the same at your Peril.

Paid - £
Levy - £

Given under my Seal of Office the Day of 18 .

Judge of the said Court.

Warrant against the Person.

Debt - £
Costs - £
£

NEWTON ABBOT COURT of REQUESTS.

To one of the Bailiffs of the said Court.

YOU are hereby commanded to take into your Custody the Body of and also to deliver h into the Custody of the Keeper of the for there to remain for the Space of Days, for neglecting and refusing to abide by and perform an Order made by the said Court of Requests in a certain Plaint depending in the said Court, wherein was Complainant and the said was Defendant, whereby it was ordered that the Defendant pay to the Plaintiff £ Debt, and Costs:

Paid - £
Levy - £
£

Provided nevertheless, that if the said shall, before the Expiration of the said Days, pay the said Debt and Costs, together with Increase of Costs, he is to be forthwith discharged.

Plaintiff
against
Defendant.

Received this Day of 18 of the Defendant the Sum of £ being the Debt and Costs in the above-named Suit.

Bailiff.

Given under my Seal of Office this Day of One thousand eight hundred and

Judge of the Court.

THE SCHEDULE OF FEES.

JUDGE'S FEES.	For every Debt not exceeding 5*l.*	For every Debt exceeding 5*l.* and not exceeding 10*l.*	For every Debt exceeding 10*l.*
	s. *d.*	*s.* *d.*	*s.* *d.*
For every Summons - - - -	1 0	2 0	3 0
For every Hearing or Trial without a Jury - -	2 6	7 6	10 0
Ditto - - with a Jury - -	- - -	10 0	15 0
For every Order, Decree, or Judgment - -	1 0	2 0	3 0

CLERK'S FEES.	On Debts not exceeding 40*s.*	On Debts exceeding 40*s.* and not exceeding 5*l.*	On Debts exceeding 5*l.* and not exceeding 10*l.*	On Debts exceeding 10*l.*
	s. *d.*	*s.* *d.*	*s.* *d.*	*s.* *d.*
For entering every Plaint - - - -	0 6	1 0	1 6	2 0
Issuing every Summons or Subpœna - - -	0 6	1 0	1 6	2 0
For every Trial or Hearing without a Jury -	1 0	1 6	2 0	2 6
Adjournment of any Cause - - - -	0 3	0 4	0 6	0 8
Entering and giving Notice of Set-off or special Defence - - - - - - -	0 6	0 9	1 3	1 6
Swearing any Plaintiff, Defendant, or Witness -	0 4	0 6	0 8	1 0
Entering and drawing up every Judgment, Decree, or Order - - - - - - -	0 6	1 0	2 0	2 6
Copy of every Judgment, Decree, or Order -	0 3	0 6	1 0	1 3
Every Nonsuit - - - - -	0 6	1 0	2 0	2 6
Paying Money into Court, and entering same in Books - - - - -	0 3	0 4	0 6	0 8
Every Search, including Payment of Money into and out of Court, and entering same - -	0 4	0 6	1 0	1 3
Every Receipt on Payment of Money out of Court, exclusive of Stamp - - - -	0 4	0 6	1 0	1 3
Issuing every Attachment, Precept, Order, or Execution - - - - -	1 0	1 6	2 6	3 0
Entering Acknowledgment of Satisfaction in full -	0 6	1 0	2 0	2 6
For every Warrant of Commitment for an Insult or Misbehaviour in the Court to the Judge, Clerk, or other Officer of the Court - - - -	1 0	1 0	1 0	1 0
Entering and giving Notice of Jury being required	- - -	- - -	2 0	3 0
Summons for Jury - - - -	- - -	- - -	2 0	3 0
Swearing Jury in each Cause - - -	- - -	- - -	1 0	2 0
For every Hearing or Trial with a Jury - -	- - -	- - -	4 0	5 0
Taking Recognizance or Security for Costs - -	- - -	- - -	2 6	3 0
Notice of Money having been paid into Court -	0 6	1 0	1 6	2 0
Taxing Costs - - - - -	1 0	1 0	2 0	3 0

BAILIFF'S AND SERJEANT'S FEES.	On Debts not exceeding 40*s.*	On Debts exceeding 40*s.* and not exceeding 5*l.*	On Debts exceeding 5*l.* and not exceeding 10*l.*	On Debts exceeding 10*l.*
	s. *d.*	*s.* *d.*	*s.* *d.*	*s.* *d.*
For calling every Plaintiff or Defendant - -	0 2	0 3	0 5	0 6
For serving every Summons, Order, or Subpœna, within One Mile of the Court House -	0 4	0 6	0 10	1 0
If above One Mile, then extra for every Mile not exceeding Seven Miles from the Court House - - - - - -	0 2	0 3	0 4	0 4
For the Execution of any Warrant, Precept, or Attachment against the Goods or Body - -	1 0	1 6	2 6	3 0
If above One Mile, then extra for every Mile not exceeding Seven Miles from the Court House - - - - - -	0 2	0 3	0 4	0 4
If an Assistant Serjeant should be necessary in the Judgment of the Court, then for Assistant	0 6	1 0	2 0	2 6
If above One Mile, then extra for every Mile not exceeding Seven Miles from the Court House - - - - - - - -	0 2	0 3	0 4	0 4
For carrying every Plaintiff, Defendant, or Delinquent to Prison, (including all Expences and Assistants,) for every Mile - - -	1 0	1 0	1 0	1 0

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1840.