



ANNO PRIMO & SECUNDO.

VICTORIÆ REGINÆ.

Cap. xcix.

An Act for amending certain Acts relating to the Civil Court of Record of the Borough of *Liverpool*, and improving the Proceedings thereof.

[10th August 1838.]

WHEREAS there is in the Borough of *Liverpool* an ancient Court of Record for the Trial of Civil Actions called the Borough Court of *Liverpool*, or the Court of Passage of the Borough of *Liverpool*: And whereas an Act was passed in the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for amending the Proceedings and Practice of the Court of Passage of the Borough of Liverpool in the County Palatine of Lancaster*: And whereas an Act was passed in the Sixth and Seventh Years of the Reign of His said late Majesty, intituled *An Act to amend and render more effectual an Act passed in the Fourth and Fifth Year of the Reign of His present Majesty, intituled 'An Act for amending the Proceedings and Practice of the Court of Passage of the Borough of Liverpool in the County Palatine of Lancaster,' and to repeal an Act passed in the Twenty-fifth Year of the Reign of His late Majesty King George the Second, intituled 'An*

4 & 5 W. 4.
c. 92.

6 & 7 W. 4.
c. 135.

[Local.] 27 U ' Act

1 Vict. c. 98. *Act for the more easy and speedy Recovery of Small Debts in the Town and Port of Liverpool, and Liberties thereof, in the County Palatine of Lancaster,* and to give further Power for the Recovery of Small Debts within the Borough of Liverpool: And whereas an Act was passed in the First Year of Her present Majesty, intituled *An Act for altering, amending, improving, and extending the Provisions of certain Acts of Parliament relating to the Town of Liverpool in the County Palatine of Lancaster;* And whereas the said recited Acts have been found beneficial, but the same are in some respects insufficient, and it is desirable that the same should be amended: And whereas it is expedient to prevent the vexatious Removal of Causes from the said Court by Defendants for Delay, and to facilitate the Proceedings and Recovery of Debts in Actions in the said Court, and otherwise to improve the Practice thereof: 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 the present Parliament assembled, and by the Authority of the same, That the said recited Act of the Fourth and Fifth Years of the Reign of His late Majesty King *William* the Fourth, the said recited Act of the Sixth and Seventh Years of the Reign of His said late Majesty, and the said recited Act of the First Year of the Reign of Her present Majesty, and all the Powers, Authorities, Provisions, Directions, Exemptions, Remedies, Regulations, Clauses, Matters, and Things therein respectively contained, (except such of them as have been altered, varied, or repealed by any of the said recited Acts, or by any Public General Act, or as may be altered, varied, or repealed by this Act,) shall extend and be deemed and construed to extend to this Act, and shall operate and be in force with respect to this Act, as fully and effectually to all Intents and Purposes whatsoever as if the same were repeated and re-enacted in this Act; and the said recited Acts and this Act shall be construed together as One Act.

Recited Acts extended to this Act.

Upon what Conditions Execution shall be stayed upon any Writ of Error, &c. for reversing Judgment given in the Borough.

II. And be it enacted, That no Execution after Verdict shall hereafter be stayed or delayed upon or by any Writ of Error or Supersedeas thereon to be sued for the reversing of any Judgment in the said Borough Court by the Person against whom such Judgment shall be given, unless such Person, with Two sufficient Sureties such as the Court shall allow of, shall, before such Stay or Supersedeas, be bound unto the Party for whom any such Judgment is or shall be given, by Recognizance, to be acknowledged in the same Court, in a sufficient Sum in that Behalf, to prosecute the said Writ of Error with Effect, and also to satisfy and pay (if the said Judgment be affirmed or the said Writ of Error be non-pros'd) all and singular the Debt, Damages, and Costs adjudged or to be adjudged, and all Costs and Damages to be awarded for the same delaying

delaying of Execution: Provided always, that any of the Judges of the Superior Courts at *Westminster* may order Execution to be stayed upon any such Judgment by a Writ of Error returnable in any Superior Court, without such Recognizance or Security as aforesaid.

the Presence of the Mayor.

III. And be it enacted, That whenever any Judgment which shall have been recovered in the said Borough Court shall not be available, by reason of the Absence of the Person against whom such Judgment shall have passed from and out of the Jurisdiction of the said Court, or by reason of such Person not having Goods and Chattels sufficient to satisfy such Judgment within the said Jurisdiction, it shall and may be lawful for any of the Superior Courts at *Westminster*, or for the Court of Common Pleas at *Lancaster*, or for any Judge of any of the said Superior Courts, either in Term or in Vacation, upon a Certificate from the Judge, Assessor, or Registrar of the said Borough Court of the Amount of final Judgment obtained in any such Action, to issue a Writ or Writs of Execution thereupon for the Amount of such Judgment, and the Costs of such Writ or Writs, and Certificate and Application, to the Sheriff of any County City, Liberty, or Place, or, as to the Counties Palatine, to the proper Officer in that Behalf, against the Person or Persons or Goods of the Party or Parties against whom such final Judgment shall have been obtained, in such Manner as upon Judgments obtained in any of the said Courts at *Westminster*.

Where final Judgment shall be obtained in the Court, and the Person or Effects cannot be found within the Jurisdiction, any of the Superior Courts may issue Execution, &c.

IV. And be it enacted, That in case any Rule of the said Borough Court cannot be enforced by reason of the Non-residence of any Party or Parties within the Jurisdiction thereof, it shall be lawful, upon a Certificate of such Rule by the Judge, Assessor, or Registrar of the said Court, and an Affidavit that by reason of such Non-residence such Rule cannot be enforced as aforesaid, to make such Rule a Rule of any one of the said Courts at *Westminster* or of Common Pleas at *Lancaster*, if such Court, or any Judge thereof, either in Term or Vacation, shall think fit; whereupon such Rule shall be enforced as a Rule of such Court.

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

V. And be it enacted, That in order to lessen the Expence of making up the Records of the said Court it shall be sufficient, in all Cases where the Record is made up, to commence with the Declaration, after stating in Manner following, or in like Manner, according to the Nature of the particular Proceeding:

To lessen Expence of Records.

‘ **B**E it remembered, That *A.B.* the Plaintiff impleaded *C.D.* the Defendant in the Borough Court of *Liverpool* on the Day of _____ in the Year of our Lord _____ and declared against _____ in these Words that is to say, &c.’

And

And then to proceed to state the rest of the Pleadings, and the Trial, Exceptions, Verdict, and Judgment, according to the Nature of the Proceeding, without stating any Continuances, which shall be and be held to be unnecessary to be stated in any Case whatsoever.

Scale of
Costs.

VI. And whereas by the said recited Act of the Sixth and Seventh Years of the Reign of His late Majesty it is enacted, that from and after the First Day of *January* One thousand eight hundred and thirty-seven no Costs or Fees shall be allowed to the Attornies practising in the said Court, except according to a Scale or Scales to be from Time to Time submitted to the Vice Chancellor of the County Palatine of *Lancaster* and Two of the Judges of the Court of Common Pleas at *Lancaster*, and allowed by the said Vice Chancellor and Judges, or any Two of them the said Vice Chancellor and Judges: And whereas the said recited Enactment has been found to be inconvenient in Practice, and to impose unnecessary Trouble and Duties upon the said Vice Chancellor and Judges: For Remedy thereof be it enacted, That such Scale or Scales shall be from Time to Time submitted to such Master or other taxing Officer of the Courts of Queen's Bench, Common Pleas, or Exchequer at *Westminster* as the said Vice Chancellor and Judges, or any Two of them, shall from Time to Time nominate in that Behalf; and that the Allowance of such Master or other taxing Officer of Costs or Fees to the Attornies practising in the said Borough Court shall be of the same Force and Effect as if the same had been allowed in manner in the said recited Act directed; provided that the Allowance of such Officer shall be always subject to the Revision thereof, and such Alteration therein as the said Vice Chancellor and Judges, or any Two of them, may at any Time think proper.

Power to
arrest Per-
sons where
Cause of Ac-
tion is not
within the
Jurisdiction
repealed.

VII. And be it enacted, That so much of the said recited Act of the Fourth and Fifth Year of the Reign of King *William* the Fourth, and of the said recited Act of the Sixth and Seventh Year of the same Reign, as authorizes or relates to the Arrest of Persons about to depart the Realm with Intent to avoid the Payment of their just Debts, resorting to the Port of *Liverpool*, and found within the Jurisdiction of the said Borough Court, although the Causes of Action in respect whereof such Persons may be so indebted have not arisen within the Jurisdiction of the same Court, shall be and the same is hereby repealed.

Assessor and
Registrar may
take Writs of
Trial without

VIII. And whereas by an Act passed in the Third and Fourth Years of the Reign of His late Majesty King *William* the Fourth, intituled *An Act for the further Amendment of the Law, and the further*
Ad-

Advancement of Justice, and by another Act passed in the Fourth and Fifth Years of the Reign of King *William* the Fourth, intituled *An Act for improving the Practice and Proceedings in the Court of Common Pleas of the County Palatine of Lancaster*, it is enacted, that in any Actions depending in any of the Superior Courts therein respectively named for any Debt or Demand in which the Sum sought to be recovered and endorsed on the Writ of Summons shall not exceed Twenty Pounds, it shall be lawful for the Court in which such Suit shall be depending, or any Judge of any of the said Courts, in the Cases therein mentioned, to order that the Issue be tried before the Sheriff of the County where the Action is brought, or the Judge of any Court of Record for the Recovery of Debt in such County: And whereas the Mayor for the Time being of the Borough of *Liverpool* is the Judge of the Borough Court, but the Trial of Issues joined therein, the Hearing of Motions for new Trials, and the Hearing of special Arguments, are taken before the Assessor, without the Presence of the Mayor, at the Quarterly or other Courts of Passage, and Inquiries of Damages in the said Court are perfected, and the Business of the Court, other than Issues and special Arguments as aforesaid, taken before the Registrar, without the Presence of the Mayor, at the Monthly and Weekly Borough Courts: And whereas it is expedient to relieve the Mayor from personal Attendance on Writs of Trial; be it therefore enacted, That the Assessor may alone, and without the Presence of the Mayor, at the Quarterly or other Courts of Passage, try all Issues joined in the Superior Courts, and ordered to be tried before the Judge of the said Borough Court; and that the Registrar may in like Manner alone, and without the Presence of the Mayor, at the Monthly or Weekly Borough Courts, try such Issues joined in the said Superior Courts.

the Presence
of the Mayor.

IX. And be it enacted, That in the Construction of this Act 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 extend 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 be applied to a Female as well as a Male.

Interpreta-
tion Clause.

X. And be it enacted, That the Costs, Charges, and Expences attending or incident to the obtaining and passing of this Act shall be paid by the Council out of the Borough Fund of the said Borough.

Expences of
Act.

[Local.]

[27 X]

XI. And

Public Act.

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

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