

SESSIONAL PAPER No. 18

by him to the Plaintiff if thereto personally required by the Plaintiff himself who shall pay the Bailif for the service & Attestation aforesaid, the Sum of one Shilling & no more, which Sum of one Shilling, together with the Charges of issuing and returning such Process shall be allowed him in his Costs in Case he shall obtain Judgement against the said Defendant in the Action but in case the said Plaintiff shall not personally demand the Custody of the said Process after such Service and Attestation as aforesaid then the Bailiff so serving and attesting the same shall forthwith return the same to the Court of Common Pleas from whence such Process issued who shall direct the Costs of returning the same together with the Fee of one Shilling for the Service and Attestation thereof to be paid to the said Bailiff, by the Defendant if he shall be condemned in the Action or by the Plaintiff if he shall discontinue or otherwise fail in the proof of the Matter contained in his Declaration.

And it is further ordained and declared by the Authority aforesaid that if any Defendant after having been duly summoned as aforesaid shall refuse to pay the said debt and shall not appear either by himself or Agent before the Court at the time and Place mentioned in the said Writ of Summons it shall and may be lawful for the Judge or Judges of the said Court upon View of the Certificate of the said Bailiff or other due proof of the Service of the said Writ of Summons in manner aforesaid to hear the Cause on the part of the Plaintiff only and to make such Order Decree or Judgement and to award such reasonable Costs of Suit as to him or them shall seem most agreeable to Equity and good Conscience and if upon the day of the Return of such Writ, or on such other day as shall be appointed by the Court for the hearing of the Cause the Defendant so summoned as aforesaid shall appear either by himself or his Agent, and the Plaintiff shall not appear either by himself or his Agent, or appearing shall not prosecute or prosecuting shall fail in the proof of the Matter contained in his declaration that then upon due proof that such Defendant was served with such process it shall and may be lawful to and for the Judge or Judges of the said Court to dismiss the said Defendant and decree and award him such Costs as in his or their discretion shall seem meet and also to award Execution against the said Plaintiff for Recovery and levying thereof in the same manner as other Executions are hereby directed to be awarded against the Defendant where the Plaintiff shall obtain Judgement in the Action.

Provided always and it is hereby further ordained and declared by the Authority aforesaid that no Execution shall be awarded against any Defendant until the next Court day after