



Derbyshire Mining Customs and Mineral Courts Act 1852

1852 CHAPTER clxiii 16 and 17 Vict

XLI Execution may be issued.

Where a Plaintiff obtains Judgment in an Action of Title, and the Defendant shall refuse, for the Space of Three Days next after the Day on which Judgment is given, to deliver Possession to the Plaintiff, it shall be lawful for the Plaintiff to apply to the Steward, and the Steward shall thereupon issue a Warrant, and the Barmaster shall forthwith execute such Warrant and deliver Possession accordingly: Provided always, that no Entry or Seizure under any such Warrant, or under the Warrant next herein-after mentioned, shall be made on a *Sunday*, *Good Friday*, or *Christmas Day*, or on any Day appointed for a Public Fast or Thanksgiving, or at any Time except between the Hours of Nine in the Morning and Four in the Afternoon; and where a Defendant shall, for the Space of Three Days after the Day when the Judgment is given or Order made, omit to pay any Debt or Damages recovered or awarded to be paid by any Judgment of the Small Barmote Court, or where either Plaintiff or Defendant shall, for the Space of Three Days, omit to pay any Money or Costs recovered or awarded to be paid by any such Judgment, or by any Order made by the Steward, or where any Person shall omit to pay any Penalty imposed by the Steward under the Authority of this Act within the Time appointed by the Steward for Payment thereof, it shall be lawful for the Steward and he is hereby required, upon the Application of the Party in whose Favour or for whose Benefit such Judgment or Order shall have been given or made, or in the Case of a Penalty at his own Discretion, to issue a Warrant, and the Barmaster shall thereupon forthwith take possession of any Mineral Property within the Jurisdiction of the said Barmote Courts which shall belong to the Party so omitting to pay such Debt or Damages, or Money or Costs, or Penalty, and shall sell the same either by Ticket or by Public Auction, or so much thereof as may be necessary to raise the Sum mentioned in such Warrant, and the Fees allowed by this Act for executing the same, and shall return any surplus Monies arising from such Sale that may remain after paying such Debt or Damages, or Money or Costs, or Penalty and Fees as aforesaid, to the Defaulter; and if the Party against whom the Warrant issues has, before the issuing of such Warrant, in fact paid the Debt, Damages, Money, Costs, or Penalty, or any Part thereof, and the Warrant issues for too much, the Steward shall not therefore be liable to any Action, except in Cases where he issues the Warrant of his own Motion, and with

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Knowledge of the Payment, but the Party who sues out the Warrant, or the Steward, if he issues it of his own Motion and with such Knowledge as aforesaid, shall be alone responsible in such Cases for the improper issuing of the Warrant, and for what is done thereunder; and in case the Person against whose Mineral Property such Warrant shall have been issued shall not have any Mineral Property within the Jurisdiction of the Barmote Court out of which such Warrant shall have issued, or not sufficient to answer the Amount mentioned in such Warrant after deducting such Fees as aforesaid, it shall be lawful for the person who shall have obtained such Judgment or Order, or in case of a Penalty for the Steward, to recover the Amount or Deficiency by Action of Debt in the County Court, if the Amount of the Debt or Deficiency shall not exceed Fifty Pounds, otherwise in any Superior Court [^{F1}at the Royal Courts of Justice]; and the Certificate of the said Steward of the Amount of the Debt or Damages, or Money or Costs, or Penalty, or of the Proportion thereof, which has not been recovered under such Warrant, shall be Evidence, but not conclusive Evidence, that the Sum therein mentioned to be not recovered was due and unpaid at the Date of such Certificate; and the Count in the Declaration in any such Action in One of the Superior Courts may be simply to the Effect that the Defendant was indebted to the Plaintiff in a Sum (naming it) by virtue of this Act, and of a Certificate thereunder granted by the Steward of the Barmote Courts, which Sum the Defendant had not paid.

Textual Amendments

F1 Words substituted by virtue of [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\)](#), s. 224(1)

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