ANNO QUADRAGESIMO TERTIO

# GEORGII III. REGIS.

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## C A P. XLVI.

## An Act for the more effectual Prevention of frivolous and vexatious Arrests and Suits; and to authorize the levying of Poundage upon Executions in certain Cases. [27th *May* 1803.]

FOR the more effectual Prevention of frivolous and vexatious Arrests, and for the Relief of Persons imprisoned on Mesne Process; be it enacted by the King'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, from and after the First Day of *June* One thousand eight hundred and three, no Person shall be arrested or held to Special Bail upon any Process issuing out of any Court, within those Parts of the United Kingdom of *Great Britain* and *Ireland* called *England* and *Ireland*, for a Cause of Action not originally amounting to such Sum for which such Person is by the Laws now in being, liable to be arrested and held to Bail, over and above and exclusive of any Costs, Charges, and Expences that may have been incurred, recovered, or become chargeable in or about the suing for or recovering the same, or any Part thereof.

From *June* 1, 1803, no Person shall be arrested on any Process issuing out of any Courts in *England* or *Ireland*, for a Cause of Action not amounting to such Sum for which he is now by Law liable to be arrested, exclusive of Costs.

II. And whereas it does and may happen that Persons arrested upon Mesne Process may not be able to find sufficient Sureties for their Appearance at the Return of the Writ, and yet may be able to make a Deposit

Persons arrested on Mesne Process, instead of giving Bail, may de-

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posit with the Sheriff, *etc.* the Sum indorsed on the Writ, with 10 *l.* to answer Costs, *etc.* and be thereupon discharged from Arrest.

posit of the Money for which they are so arrested, together with a competent Sum for Costs: And whereas it is expedient that Persons arrested should, upon making such Deposit, be permitted to go at Large until the Return of the Writ without finding Bail to the Sheriff for their Appearance at the Return thereof; be it therefore enacted by the Authority aforesaid, That all Persons who shall, from and after the First Day of *June* in the Year of our Lord One thousand eight hundred and three, be arrested upon Mesne Process, within those Parts of the United Kingdom of *Great Britain* and *Ireland* called *England* and *Ireland*, shall be allowed in lieu of giving Bail to the Sheriff, to deposit in the Hands of the Sheriff, by delivering to him, or to his Under Sheriff, or other Officer to be by him appointed for that Purpose, the Sum indorsed upon the Writ by virtue of the Affidavit for holding to Bail in that Action, together with Ten Pounds in Addition to such Sum to answer the Costs which may accrue or be incurred in such Action up to and at the Time of the Return of the Writ; and also such further Sum of Money, if any, as shall have been paid for the King's Fine upon any original Writ; and shall thereupon be discharged from such Arrest as to the Action in which he, she, or they shall so deposit the Sum indorsed on the Writ; and that the Sheriff shall, in every such Case, at or before the Return of the said Writ, pay into the Court in which such Writ shall be returnable the Sum of Money so deposited with him as aforesaid; and thereupon in case the Defendant or Defendants shall afterwards duly put in and perfect Bail in such Action according to the Course and Practice of such Court, the Sum of Money so deposited and paid into Court as aforesaid shall, by Order of the Court, upon Motion to be made for that Purpose, be repaid to such Defendant or Defendants; but in case the Defendant or Defendants shall not duly put in and perfect Bail in such Action, then and in such Case, the said Sum of Money so deposited and paid into Court as aforesaid, shall, by Order of the Court, upon a like Motion to be made for that Purpose, be paid over to the Plaintiff or Plaintiffs in such Action, who shall be thereupon authorized to enter a Common Appearance, or file Common Bail for such Defendant or Defendants, if the said Plaintiff or Plaintiffs shall so think fit; such Payment to the Plaintiff or Plaintiffs to be made subject to such Deductions, if any, from the Sum of Ten Pounds deposited and paid to answer the Costs as aforesaid, as upon the Taxation of the Plaintiff's Costs, as well of the Suit as of his Application to the Court in that Behalf, may be found reasonable.

Deposit to be paid into Court, who shall on the Defendant's perfecting Bail order it to be repaid; but on Bail not being put in, the Money shall be paid over to the Plaintiff, *etc.*

Defendant entitled to Costs where Plaintiff shall not recover the Amount of the Sum for which he was arrested.

III. And be it further enacted by the Authority aforesaid, That in all Actions to be brought in *England* or *Ireland*, from and after the said First Day of *June*, in the said Year of our Lord One thousand eight hundred and three, wherein the Defendant or Defendants shall be arrested and held to Special Bail, and wherein the Plaintiff or Plaintiffs shall not recover the Amount of the Sum for which the Defendant or Defendants in such Action shall have been so arrested and held to Special Bail, such Defendant or Defendants shall be entitled to Costs of Suit, to be taxed according to the Custom of the Court in which such Action shall have been brought; provided that it shall be made appear to the Satisfaction of the Court in which such Action is brought, upon Motion to be made in Court for that Purpose, and upon hearing the Parties by Affidavit, that the Plaintiff or Plaintiffs in such Action had not any reasonable or probable Cause for causing the Defendant or Defendants to be arrested and held to Special Bail in such

Conditions upon which Costs shall be so allowed.

ſuch Amount as aforeſaid, and provided ſuch Court ſhall thereupon by a Rule or Order of the ſame Court, direct that ſuch Coſts ſhall be allowed to the Defendant or Defendants, and the Plaintiff or Plaintiffs ſhall upon ſuch Rule or Order being made as aforeſaid, be diſabled from taking out any Execution for the Sum recovered in any ſuch Action, unleſs the ſame ſhall exceed, and then in ſuch Sum only as the ſame ſhall exceed the Amount of the taxed Coſts of the Defendant or Defendants in ſuch Action; and in caſe the Sum recovered in any ſuch Action ſhall be leſs than the Amount of the Coſts of the Defendant or Defendants to be taxed as aforeſaid, that then the Defendant or Defendants ſhall be entitled, after deducting the Sum of Money recovered by the Plaintiff or Plaintiffs in ſuch Action from the Amount of his or their Coſts ſo to be taxed as aforeſaid, to take out Execution for ſuch Coſts, in like Manner as a Defendant or Defendants may now by Law have Execution for Coſts in other Caſes.

In Actions on Judgements recovered, Plaintiffs not entitled to Coſts, unleſs otherwiſe ordered.

IV. And be it further enacted by the Authority aforeſaid, That in all Actions which ſhall be brought in *England* or *Ireland*, from and after the ſaid Firſt Day of *June* in the ſaid Year of our Lord One thouſand eight hundred and three, upon any Judgement recovered, or which ſhall be recovered, in any Court in *England* or *Ireland*, the Plaintiff or Plaintiffs in ſuch Action on the Judgement, ſhall not recover or be entitled to any Coſts of Suit, unleſs the Court in which ſuch Action on the Judgement ſhall be brought, or ſome Judge of the ſame Court ſhall otherwiſe order.

Plaintiffs may levy Poundage Fees, and Expence of Execution, beyond the Sum recovered by Judgement.

V. And be it further enacted by the Authority aforeſaid, That, from and after the ſaid Firſt Day of *June* in the ſaid Year of our Lord One thouſand eight hundred and three, in every Action in which the Plaintiff or Plaintiffs ſhall be entitled to levy under an Execution againſt the Goods of any Defendant, ſuch Plaintiff or Plaintiffs may alſo levy the Poundage Fees and Expences of the Execution over and above the Sum recovered by the Judgement.

Any Defendant in Cuſtody may, in Vacation, juſtify Bail before One of the Juſtices, *etc.* who may diſcharge him out of Cuſtody by Writ of *Superſedeas*, *&c.*

VI. And be it further enacted, That, from and after the ſaid Firſt Day of *June* One thouſand eight hundred and three, if any Defendant ſhall be taken, detained, or charged in Cuſtody at the Suit of any Perſon or Perſons upon Meſne Proceſs iſſuing out of any of His Majeſty's Courts of Record at *Weſtminſter* or *Dublin*, and ſhall be impriſoned or detained thereon, after the Return of ſuch Proceſs, it ſhall and may be lawful for ſuch Defendant in Vacation Time only, and upon due Notice thereof given to the Attorney for the Plaintiff or Plaintiffs in ſuch Proceſs, to put in and juſtify Bail before any One of the Juſtices or Barons of the Court out of which ſuch Proceſs ſhall have iſſued, who may, if he ſhall think fit, thereupon order a Rule to iſſue for the Allowance of ſuch Bail, and may further order ſuch Defendant to be diſcharged out of Cuſtody by Writ of *Superſedeas*, or otherwiſe, according to the Practice of ſuch Court, in like Manner as the ſame is and may be done by an Order of Court in Term Time.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's moſt Excellent Majeſty. 1803.