

ANNO QUADRAGESIMO QUINTO

GEORGII III. REGIS.

CAP. III.

An Act to remedy certain Omiſſions in an Act, paſſed in the laſt Seſſion of Parliament, intituled, *An Act for the Relief of certain Inſolvent Debtors.*

[7th *February* 1805.]

WHEREAS an Act, paſſed in the laſt Seſſion of Parliament, intituled, *An Act for the Relief of certain Inſolvent Debtors*, did not contain Proviſions adequate to the Relief of all the Perſons to whom it was meant to extend, by reaſon that ſeveral Priſoners who were in Cuſtody on the Firſt Day of *January* One thouſand eight hundred and four, and had continued in Cuſtody from that Time to the Time of the paſſing of the ſaid Act, and alſo until and at the Time of the making out of the Liſts, by the ſaid Act directed to be made, during the Time of ſuch their Impriſonment, been removed by Writ of *Habeas Corpus*, or by other Means, from one Priſon to another, after the ſaid Firſt Day of *January* One thouſand eight hundred and four, and before the making out of ſuch 44 G. 3. c. 108.

Lists; and also because the Form of the Lists by that Act required to be made and delivered by the several Gaolers or Keepers of Prisons within this Kingdom, and the Form of the Oath by them severally in and by the same Act required to be taken, do not comprehend and apply to the Case of Prisoners so removed as herein-before mentioned: For Remedy whereof 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 passing of this Act, all and every Gaoler or Gaolers, Keeper or Keepers of any Prison within this Kingdom, shall be, and are hereby required, in Addition to the List in and by the said Act directed to be made, to make a true, exact, and perfect List, alphabetically, of the Name or Names of all and every Person or Persons who having been, upon the First Day of *January* One thousand eight hundred and four, a Prisoner or Prisoners in the Custody of some Gaoler or Gaolers, Keeper or Keepers of some Prison in this Kingdom, shall have since continued to be a Prisoner or Prisoners in actual Custody, and at the Time of making out every such List so hereby required shall be really an actual Prisoner or Prisoners in the Custody of the Gaoler or Gaolers, Keeper or Keepers of the Prison, making and delivering such List; which List, when made, shall be delivered and dealt with in like Manner, and be effectual for the like Purpose as in and by the said Act is directed in respect to the Lists therein mentioned.

Gaolers shall make Lists in Addition to those under recited Act, of Prisoners in Custody of any Gaoler on *Jan.* 1, 1804.

II. And be it further enacted, That the Warden of His Majesty's Prison of the Fleet and Marshal of the King's Bench Prison, and every other Gaoler and Gaolers, Keeper and Keepers of any other Prison within this Kingdom, shall, severally, on the delivering in of any such List of Prisoners as herein-above required, take an Oath in the open Court of General Quarter Session of the Peace, or at some Adjournment thereof, to the following Effect; that is to say,

Oath to be taken when Lists are delivered.

Oath.

'I *A. B.* upon my corporal Oath, in the Presence of Almighty God, 'do solemnly swear, profess, and declare, That all and every Person 'and Persons whose Name or Names is or are inserted and contained 'in the List, by me now delivered in and subscribed, now are really 'and truly Prisoners in my actual Custody, in the Prison of 'and have, to the best of my Knowledge and Belief, continually so 'been ever since the respective Days and Times of their being com-'mitted to my Custody, in such List mentioned; and that it appears 'by the several Returns and Affidavits of the several Gaoler or Gaolers, 'Keeper or Keepers of Prison, in whose Custody the said several Per-'sons have been previous to their being committed to my Custody, 'and which several Returns and Affidavits are true to the best of my 'Knowledge and Belief, that they were really and truly Prisoners in 'actual Custody on the First Day of *January* One thousand eight hun-'dred and four, and have ever afterwards continued so to be until 'and at the respective Days and Times of their being committed to my 'Custody, as in such List are mentioned. 'So help me GOD.'

Which said Oath, and the Words thereof, Lists, and Copies of Lists, shall

shall be entered, kept, and dealt with, in Manner in the said Act directed respecting the Oath, Lists, and Copies of Lists, therein mentioned.

Powers of recited Act to extend to this Act.

III. And be it further enacted, by the Authority aforesaid, That all and every the Clauses, Powers, Provisions, Penalties, Regulations, and Directions, in the said Act mentioned, shall apply to the Cases of Prisoners meant to be discharged under this Act, in the same Manner as if the said Clauses, Powers, Provisions, Penalties, Regulations, and Directions, were herein expressly inserted and enacted: Provided always, That nothing in this present Act contained shall extend, or be construed to extend, to the Case of any Prisoner, or in any Manner to authorize the Discharge of any Prisoner, who would not have been entitled to be discharged under and by virtue of the said Act herein-above mentioned, if such Prisoner, being in the Custody of any Gaoler or Gaolers, Keeper or Keepers of any Prison within this Kingdom, on the First Day of *January* One thousand eight hundred and four, had afterwards continued in Custody in the same Prison up to the Time of passing the said Act, and of making out the Lists by that Act directed to be made, and had not been removed therefrom as is herein-above mentioned.

Indemnity for the Discharge of Prisoners in certain Cases under recited Act.

IV. And whereas it may have happened in some Instances that Prisoners who were in Custody on the First Day of *January* One thousand eight hundred and four, and had so continued from that Time to the Time of passing the said Act, but who, during the Time of such their Imprisonment had been removed as is herein-above mentioned, may, through Inadvertence and Mistake as to the Extent and Meaning of the Provisions of the said Act passed in the said last Session of Parliament, have been unduly discharged in supposed pursuance of the same: And whereas it is expedient that such Discharges, and all Orders made and Acts done relative thereto, should be rendered valid and effectual, and that all Persons concerned therein should be indemnified and saved harmless on Account of the same, in all Cases wherein the Prisoners so discharged would have been entitled to be discharged if this present Act had then been made: Be it therefore further enacted by the Authority aforesaid, That the Discharge of every Prisoner heretofore made under the supposed Authority of the said Act of Parliament in that Behalf, shall be good and effectual in Law to all Intents and Purposes, and in respect to all Persons whatsoever in every Case in which the Prisoner so discharged would have been entitled to be discharged if this present Act had then been made; and all and every the Clauses, Powers, Provisions, Penalties, Regulations, and Directions, in the said Act mentioned, shall apply to and be available in respect of the Case of every such Prisoner so discharged as last aforesaid; and that if any Action of Escape, or any other Action or Suit, shall have been or shall hereafter be brought against any Justice or Justices of Peace, Sheriff, the Warden of His Majesty's Prison of the Fleet, the Marshal of the King's Bench Prison, or any other Keeper or Keepers, Gaoler or Gaolers of any Prison in this Kingdom, or other Person concerned in such Discharge for or on Account of the Discharge of any such Prisoner under the supposed Authority of the said Act in that Behalf, that then, in every such Case, he or they may plead the General Issue, and give this Act and the Special Matter in Evidence in Bar of such Action or Suit; and if the Plaintiff or Plaintiffs

Plaintiffs therein be nonſuited, or a Verdict ſhall paſs, or Judgement be had therein, upon Demurrer, againſt him or them, the Defendant or Defendants ſhall have his or their Treble Coſts; provided that, in caſe any ſuch Action of Eſcape, or other Action or Suit, brought on the Account aforeſaid, ſhall be depending at the Time of the paſſing of this Act, the Plaintiff or Plaintiffs therein ſhall be at Liberty to diſcontinue the ſame without Payment of Coſts.

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