

ANNO QUADRAGESIMO NONO

GEORGII III. REGIS.

CAP. LXXXIII.

An Act for the Amendment of the Laws now in force in *Ireland*, relative to Perſons entering into Recognizances in Criminal Caſes, in Cuſtody under any Fine, or under ſuch Recognizance.

[10th *June* 1809.]

WHEREAS great Neglects have been committed in the iſſuing of the Proceſs for levying the Sums due for forfeited Recognizances in *Ireland*, and for Fines impoſed at Aſſizes, Commiſſions of Oyer and Terminer and General Gaol Delivery and Seſſions of the Peace in *Ireland*, and in conſequence thereof many Recognizances, which have been forfeited by Perſons bound for the Appearance or Proſecution of Perſons charged with Crimes, or for keeping the Peace, have remained for a great Length of Time in Arrear and unpaid, and many Fines impoſed at Aſſizes, Commiſſions of Oyer and Terminer and General Gaol Delivery and Seſſions of the Peace, have remained unpaid and uncollected: And whereas it would not be expedient to iſſue and enforce the Proceſs for levying the Arrears thereof which have been ſuffered ſo long to remain due; be it therefore 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 all Recognizances which have been forfeited by Perſons who have become bound therein for the Appearance or Proſecution of Perſons charged with any Crimes or Offences, High or Petit Treaſon and Murder only excepted, or for keeping the Peace, and all

Recognizances which have been forfeited, and Fines impoſed

before July 1, 1808, discharged and vacated, and no Process or Execution to be had thereon.

all Fines imposed at Assizes, Commissions of Oyer and Terminer or General Gaol Delivery and Sessions of the Peace, before the First Day of *July* One thousand eight hundred and eight, and which now are and stand unsatisfied and unpaid respectively, shall be henceforth for ever discharged and vacated to all Intents and Purposes whatsoever; and from henceforth no Process or Execution shall issue or be executed thereon from His Majesty's Court of Exchequer, nor shall the Officer or Officers of the said Court of Exchequer, by whom the Process ought to have been issued for the same, be in any Sort answerable for their Conduct or Neglect with respect to the same.

Persons entering into Recognizances as Sureties for others in Criminal Cases to take the following Oath.

II. And whereas under and by virtue of several Acts passed in the Parliament of *Ireland*, Persons about to enter into Recognizances in *Ireland*, as Sureties for others in Criminal Cases, are required to make certain Oaths in order to qualify themselves to enter into such Recognizances; and, in order to obviate all Doubts, it is expedient that a Form of Oath be provided to be so taken, and that the Cases in which the same shall be taken be clearly defined; be it therefore enacted by the Authority aforesaid, That no Court or Judge, or Justice of the Peace, or other Officer or Person whatsoever in *Ireland*, shall receive any Person to become a Surety, or be bound for the Appearance of any other Person or Persons charged with any Offence whatsoever, or that any other Person or Persons should keep the Peace, or be of good Behaviour, unless such Person so offering to become Surety, or be bound, shall have first made Oath before such Court, Judge, Justice, or other Officer or Person in One of the Forms here following, or in some other Form of Words of the like Import and Effect respectively, that is to say, if such Person shall reside in a County at large, in this Form; (to wit),

'I do swear, That I am a Householder, and have 'a House wherein I usually reside at in the Parish 'of Barony or Half Barony of 'and County of and that I support and maintain 'myself by and that I am worth the Sum of '[*here insert double the Sum in which he or she is to be bound*] over and 'above my just Debts. 'So help me GOD.'

And if such Person shall reside in a County, County of a City or Town, the Words "reside at" and from thence to "County of" shall be omitted, and instead thereof these Words shall be inserted; (to wit) "reside in "[*naming the Street, Square, Lane, or Place*] in the Parish of "and County of the City or Town of ;" and every such Oath shall be annexed to or written on the same Piece of Paper or Parchment with the Recognizance, and shall be signed by the Person making the same, and attested by the proper Jurat of the Court, Judge, Justice or other Person taking the same as aforesaid, and shall be sufficient in lieu of all and every Oaths and Oath required by any Law in force in *Ireland* to be taken by any such Surety.

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III. And whereas by an Act made in the Parliament of *Ireland* in the Thirty-eighth Year of His present Majesty's Reign, intituled, *An Act for the better Collection of Sums arising from forfeited Recognizances, and from Fines imposed at Assizes, Commissions of Oyer and Terminer and General Gaol Delivery and Sessions of the Peace, and for the future Application of the*

the ſame, it is amongſt other Things enacted, that it ſhould be lawful for the Court of Exchequer, or the Judges of Aſſize, on the Petition of any Perſon or Perſons in Cuſtody of any Sheriff or Sheriffs, for Non-payment of any Sum or Sums due on any Fine or Fines, or Recognizance or Recognizances entered into in any of the Caſes aforeſaid, by either a Surety or a Principal, to examine into the Facts of ſuch Petition in a ſummary Manner, and if they ſhould ſee ſufficient Reaſons to grant an Order or Warrant (as the Caſe may be) under their Hands to diſcharge any Perſon ſo in Cuſtody: And whereas it is expedient that the ſaid Proviſion ſhould be modified, and the Powers of the ſaid Court and Judges extended in Manner here following; be it therefore enacted, That if the Petition in any ſuch Caſe ſhall alledge the Inability of the Petitioner to pay the Amount of the Sum or Sums for which he or ſhe ſhall be ſo in Cuſtody, the Court or Judge in examining into ſuch Petition ſhall inquire whether ſuch Petitioner may not be of Ability, or have the Power to pay and diſcharge ſome and what Part or Proportion of the Sum or Sums for which he or ſhe ſhall be ſo confined, and ſhall not on the ſaid Ground of Poverty or Inability order ſuch Petitioner to be ſo diſcharged but on the Payment of ſuch Part or Proportion of ſuch Sum or Sums as he or ſhe may ſo have the Power to pay and diſcharge.

Petitions from Perſons in Cuſtody to be relieved from Payment of Fines on Recognizances, in what way to be conſidered.

IV. And be it further enacted, That in any Caſe in which ſuch Petitioner ſhall have been fined, or ſhall have been the Principal in any Recognizance on which he or ſhe ſhall be ſo in Cuſtody, ſuch Court or Judge ſhall alſo inquire into the Nature of the Offence for which ſuch Fine ſhall have been impoſed, or of the Charge in conſequence of which ſuch Recognizance ſhall have been entered into, and under what Circumſtances the ſame was forfeited; and in caſe ſuch Petitioner ſhall be ſo in Cuſtody under any Recognizance to anſwer or appear to any Charge, and ſhall, after the Forfeiture of ſuch Recognizance, have been tried and acquitted of ſuch Charge, ſuch Court or Judge ſhall enquire whether on ſuch Trial all the Witneſſes for the Proſecution attended and were examined, and if not, then, whether by the Forfeiture of ſuch Recognizance, the Attendance of any ſuch Witneſs was in any Reſpect prevented; and if ſuch Petitioner ſhall be a Surety, then ſuch Court or Judge ſhall enquire whether ſuch Surety uſed due Diligence to make the Principal amenable to the Law; and in all and every of ſuch Caſes, the ſaid Court or Judges or Judge of Aſſize, ſhall have full Power and Authority, if they or he ſhall think proper, to order the Diſcharge of ſuch Petitioner, either generally or after ſuch Length of Time as ſuch Court or Judges or Judge, in his or their Diſcretion, ſhall think fit, having Reſpect to the Circumſtances of the Caſe, and to the Length of Time that ſuch Petitioner ſhall have been ſo in Cuſtody as aforeſaid previous to the making of ſuch Order, and to the Object and Purpoſes of this and the other Acts relating thereto; and ſuch Order in ſuch Form ſhall be good and valid to all Intents and Purpoſes whatſoever.

Court to enquire into the Circumſtances under which the Recognizances were forfeited.

V. And be it further enacted, That all the Powers and Proviſions contained in the ſaid recited Act of the Thirty-eighth Year of His preſent Majeſty's Reign, and alſo contained in an Act made in the Parliament of *Ireland* in the Thirty-ninth Year of His preſent Majeſty's Reign, to amend the ſaid recited Act of the Thirty-eighth Year, and alſo in an Act made in the Parliament of *Ireland*, in the Fortieth Year of His preſent Majeſty's

Recited Acts to extend to this Act.

Reign, to continue and amend the ſaid recited Act of the Thirty-eighth Year, and alſo to repeal and amend Parts of the ſaid recited Act of the Thirty-ninth Year, ſhall during the Continuance of the ſaid recited Acts, be applied in the Execution of this Act and the ſaid recited Acts, and this Act ſhall be conſtrued together as One Act, ſo far as the ſame are not expreſsly repealed or altered by either of the ſaid recited Acts or by this Act reſpectively.

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