

ANNO QUINQUAGESIMO

GEORGII III. REGIS.

CAP. XLVII.

An Act to extend and amend the Provisions of an Act made in the Thirty-seventh Year of His present Majesty, for the Relief and Maintenance of Insolvent Debtors, detained in Prison in *Ireland*.

[9th *June* 1810.]

WHEREAS by an Act of Parliament made in *Ireland* in the Thirty-seventh Year of His present Majesty's Reign, intituled, *An Act for the Relief and Maintenance of Insolvent Debtors detained in Prison*, it is amongst other Things enacted, That a Prisoner arrested on Mesne Process, in order to obtain the Benefit of said Act, must before the End of the first Term which shall be next after any such Prisoner shall be committed under Mesne Process, exhibit his Petition for Relief: And whereas it is reasonable that every detaining Creditor or Creditors Debts or Demands should be ascertained by Verdict or Judgement before a Prisoner shall be obliged to give up his Property under the Provisions of said Act: And whereas Plaintiffs are not obliged by the Law or the Practice of the Courts in *Ireland*, either to file Declarations against Persons in Prison there on Mesne Process at their Suit, or to proceed to Trial or Judgement at any determinate Time, unless compelled by such Prisoners to declare or go to Trial at considerable Expences to such Prisoners; by Reason whereof and of their Inability to defray the same, many Prisoners have remained for several Years confined under Mesne Process only: And whereas Prisoners confined for Debt in *Ireland* are obliged to defend by Attorney, when Prisoners confined for Debt in *England* may defend in Person: And whereas there are no Liberties or Day Rules allowed to Prisoners confined for Debt in the Four Courts Marshalsea Prison in *Dublin*, similar to those enjoyed by Prisoners confined for Debt in the King's Bench and Fleet Prisons in *England*: And whereas it is expedient to extend and assimilate the said Act to the Act commonly called the *Lords Act*, in *England*, as also the Law, Practice, and Liberties, in

Irish Act 37 G. 3.

in regard to Priſoners confined for Debt in *Ireland*, with the Law, Practice, and Liberties, in reſpect to Perſons confined for Debt in *England*, in the Matters aforeſaid, which if adopted may in a great Meaſure ſuperſede the Neceſſity of frequent Inſolvent Acts for *Ireland*: 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 ſo much of the ſaid Act for Relief and Maintenance of Inſolvent Debtors, as limits Priſoners confined on Meſne Proceſs to exhibit their Petition for Relief before the End of the firſt Term which ſhall be next after any ſuch Priſoner ſhall be committed under Meſne Proceſs, ſhall be and the ſame is hereby repealed.

So much of the recited Act as limits Priſoners confined on Meſne Proceſs to exhibit Petitions for Relief within a certain Time, repealed.

Within a certain Time Declarations ſhall be delivered;

II. And be it further enacted, That from and after the paſſing of this Act, in all Caſes where a Debtor is or ſhall be arreſted, detained, or charged in Cuſtody by Meſne Proceſs iſſuing out of the Courts of King's Bench, Common Pleas, or Exchequer in *Ireland*, and the Plaintiff ſhall neglect to cauſe a Declaration againſt ſuch Debtor to be delivered to ſuch Debtor or to the Marſhal of the Four Courts Marſhalſea or his Deputy, or to the Gaoler or Keeper of the Gaol or Priſon where ſuch Debtor is or ſhall be detained or charged in Cuſtody, within eight Days of the next Term after the Return of the Proceſs by virtue whereof ſuch Debtor is or ſhall be taken, detained, or charged in Cuſtody or within Twenty-one Days after the paſſing of this Act, ſuch Debtor ſhall be diſcharged out of Cuſtody by Order of the ſaid Court, or a Judge of the ſaid Court out of which ſaid Proceſs iſſued; and in caſe of a Commitment or Surrender to the Maſhal in Diſcharge of Bail after the Return of the Proceſs and before a Declaration to be delivered as aforeſaid, unleſs a Declaration be delivered to ſuch Debtor within the firſt Eight Days of the Term next after ſuch Commitment or Surrender ſhall be made, ſuch Debtor ſhall be diſcharged out of Cuſtody in Manner aforeſaid.

and Trial proceeded on againſt Priſoners.

III. And be it enacted, That in all Caſes where a Declaration ſhall be filed againſt ſuch Debtor in Manner aforeſaid, ſuch Debtor ſhall be diſcharged out of Cuſtody by Order of the Court out of which ſuch Proceſs iſſued, or by Order of a Judge of the ſaid Court, unleſs the Plaintiff ſhall proceed to Trial or Judgement before the End of the firſt Eight Days of the Third Term after ſuch Declaration ſhall be delivered, the Term in which ſuch Declaration ſhall be delivered to be counted as one; but in caſe the Venue ſhall be laid in the County of the City of *Dublin*, or the County of *Dublin*, that then and in that caſe the Plaintiff ſhall proceed to Trial or Judgement within the Term next after the Delivery of ſuch Declaration, or in the Sittings after ſuch Term; otherwiſe that ſuch Priſoner ſhall be diſcharged in Manner aforeſaid.

Charging Priſoners in Execution.

IV. And be it further enacted, That in all Caſes where the Plaintiff has obtained a Verdict or Judgement againſt any Priſoner, ſuch Plaintiff ſhall charge ſuch Priſoner in Execution within the firſt Eight Days of the next Term after the obtaining ſuch Verdict or Judgement; and in Caſe of Failure in ſo doing ſuch Priſoner ſhall be diſcharged in Manner aforeſaid.

How Priſoners in Execution may apply for Maintenance

V. And be it further enacted, That ſuch Priſoner charged in Execution may before the end of firſt Term which ſhall be next after ſuch Priſoner ſhall be charged in Execution, exhibit a Petition to any Court of Law from which ſuch Proceſs iſſued, or by the Authority of which ſuch

Priſoner

Priſoner may have been removed by *Habeas Corpus* into the Cuſtody of the Marſhal of the Four Courts Marſhalſea, for the Benefit of the ſaid Maintenance Act; any Thing in the ſaid Act to the contrary notwithſtanding; provided the Amount of his or her Debts for which he or ſhe ſhall be detained in Cuſtody ſhall not exceed the Sum of Five hundred Pounds. under recited Acts. But Debts not to exceed 500 l.

VI. And be it further enacted, That every Priſoner who ſhall be charged in Execution in any Priſon or Gaol in *Ireland*, for any Sum or Sums of Money not exceeding in the Whole the Sum of Five hundred Pounds, and who ſhall be willing to ſatisfy their reſpective Creditors as in and by the ſaid Act is directed, may, before the end of the Term which ſhall be next after any ſuch Priſoner ſhall be charged in Execution, or within Twenty Days after the paſſing of this Act, exhibit his or her Petition to the Court, out of which ſuch Proceſs iſſued or by the Authority of which ſuch Priſoner may have been removed by *Habeas Corpus* into the Cuſtody of the Marſhal of the Four Courts Marſhalſea, or rendered in diſcharge of his or her Bail, for the Benefit of the ſaid Act. When Priſoners may petition for Diſcharge.

VII. Provided always, and be it further enacted, That the Truth of each of the Objections againſt the obtaining the Benefit of this Act, ſhall be proved by the Teſtimony upon Oath of One or more credible Witneſs or Witneſſes, beſides the Teſtimony upon Oath of the Perſon or Perſons making ſuch Objections, or other legal Proof or Evidence admiſſible in a Court of Law; and that no Perſon, except a detaining Creditor or ſuch Perſon or Perſons as have commenced their Action or Actions againſt a Priſoner previous to the making ſuch Objections, ſhall be permitted to oppoſe the Diſcharge of any Priſoner ſeeking Relief under this Act. How Objections to ſuch Diſcharge ſhall be made.

VIII. And be it further enacted, That from and after the paſſing of this Act, if any Priſoner ſhall be remanded at the Inſtance of the Plaintiff or Plaintiffs, the ſaid Plaintiff or Plaintiffs ſhall pay ſuch Priſoner the Weekly Sum of Three Shillings and Ten-pence for his or her Maintenance, inſtead of the Sum of Two Shillings and Four-pence allowed by the ſaid Act, and under the ſame Terms, Conditions, and Clauſes, as are in and by the ſaid Act directed, in regard to the Payment of Two Shillings and Four-pence a Week therein mentioned; and alſo that the ſaid Sum of Three Shillings and Ten-pence ſhall be paid to every ſuch Priſoner, before the Hour of Twelve of the Clock on the *Monday* of each Week, or in failure thereof the Marſhal of the Four Courts Marſhalſea, and any One Alderman or other Juſtice of the Peace for the City of *Dublin*, on Affidavit of the Deputy Marſhal or Henchman belonging to ſaid Marſhalſea, which Oath every ſuch Alderman or Juſtice is hereby empowered and required to adminiſter, of the Neglect or Failure of the Payment of the ſaid Weekly Sum, ſhall and is hereby required to diſcharge the ſaid Priſoner; any Thing herein contained to the contrary notwithſtanding. Weekly Allowance to Priſoners encreaſed.

IX. And be it further enacted, That no Creditor cauſing a Priſoner to be remanded on merely an Undertaking to pay the ſaid Weekly Sum, ſhall have Power to detain the ſaid Priſoner in Confinement longer than Three Terms, but that the ſaid Priſoner may on the laſt Day of the ſaid Term, that ſuch Maintenance ſhall have been paid to him or her, produce to the Court from whence he or ſhe ſhall have been committed, a Certificate of his or her having been detained by the Payment of ſaid Weekly Sum, ſigned (and verified on Oath if required) by the Marſhal or his Deputy, and be diſcharged by the Court from ſame. Term of Confinement of Priſoners receiving Weekly Allowance.

X. And

Allowance to Priſoners remanded on Application of Attornies.

X. And whereas Priſoners are often remanded at the Inſtance of Attornies employed againſt them, alledging that the Plaintiffs live in a remote Part of the Kingdom, and that they had not Time to communicate with ſaid Plaintiffs; be it therefore enacted, That in all ſuch Caſes where the Court ſhall think fit to remand the Priſoner, the ſaid Attorney ſhall depoſit with the Marſhal a Sum of Money ſufficient to pay the Priſoner One Shilling *per* Day for his or her Maintenance, until he or ſhe ſhall be again brought up to receive the Judgement or Deciſion of the ſaid Court.

Act not to extend to Attornies and Servants embezzling.

XI. Provided always, and be it enacted, That nothing in this Act ſhall be conſtrued to extend to the Releaſe or Diſcharge of any Attornies or Servants embezzling Money, except where any ſuch Perſon ſhall have been confined in Priſon Ten Years.

Priſoners for Contempt ſhall have the Benefit of this Act.

XII. And whereas many Perſons are often committed by the Courts of Law and Equity for Contempts, for not paying Money ordered or awarded to be paid, and alſo for not paying of Coſts duly and regularly taxed and allowed by the proper Officer, after proper Demands made for that Purpoſe, and alſo upon the Writ of *Excommunicato Capiendos* or other Proceſs for or grounded on the Non-payment of Money, Coſts or Expences, in ſome Cauſe or Proceeding in ſome Eccleſiaſtical Court, or for Contempt to ſuch Court relating thereto; it is hereby declared and enacted, That all ſuch Perſons are and ſhall be entitled to the Benefit of this Act, in like manner as herein is expreſſed and declared with reſpect to Priſoners for Debt only.

Priſoners may defend in Perſon.

XIII. And be it further enacted, That every Priſoner confined for Debt in *Ireland*, may plead and defend in his proper Perſon without Attorney.

Relief for Priſoners not having taken the Benefit of recited Act.

XIV. And be it further enacted, That where any Debtor ſhall have neglected to take the Benefit of the ſaid Act within the Time limited by the ſaid Act, and ſhall make it appear to the Court out of which ſuch Execution iſſued, that ſuch Neglect aroſe from Ignorance or Miſtake, ſuch Debtor ſhall be entitled to the Benefit of this Act, as if he or ſhe had petitioned for the Benefit of the ſaid Act within the Time by the ſaid Act limited; any Thing in the ſaid Act contained to the contrary notwithſtanding.

Gaolers ſhall inform Priſoners of this Act.

XV. And be it further enacted, That all Gaolers and Keepers of Priſons in *Ireland* ſhall and they are hereby directed and required to give Notice of this Act to all Priſoners in their Cuſtody for Debt, within Three Days after ſuch Priſoners ſhall have been reſpectively committed or charged in Execution; and if any Gaoler or Keeper of a Priſon in *Ireland* ſhall neglect to give ſuch Notice, he ſhall forfeit and pay to any Perſon who ſhall ſue for the ſame, the Sum of Fifty Pounds, to be recovered by him or her by Action of Debt in any of His Majeſty's Courts of Record in *Ireland*; and in every ſuch Action the Proof ſhall lie on the Perſon againſt whom the ſame ſhall be brought; provided nevertheleſs that ſuch Action ſhall be brought within Twelve Calendar Months after the Cauſe of Action incurred.

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