ANNO QUINQUAGESIMO PRIMO

GEORGII III. REGIS.

CAP. CXXIV.

An Act further to extend and render more effectual certain Provisions of an Act passed in the Twelfth Year of the Reign of His late Majesty King *George* the First, intituled, *An Act to prevent frivolous and vexatious Arrests*; and of an Act passed in the Fifth Year of the Reign of His Majesty King *George* the Second, to explain, amend, and render more effectual the said former Act; and of Two Acts passed in the Nineteenth and Forty-third Years of the Reign of His present Majesty, extending the Provisions of the said former Acts. [2d *July* 1811.]

WHEREAS by an Act made in the Twelfth Year of the Reign of His late Majesty King *George* the First, intituled, *An Act to prevent frivolous and vexatious Arrests*, it was (amongst other Things) enacted, That from and after the Twenty-fourth Day of *June* One thousand seven hundred and twenty-six, no Persons should be held to Special Bail upon any Process issuing out of any superior Court, where the Cause of Action should not amount to the Sum of Ten Pounds or upwards, nor out of any inferior Court where the Cause of Action should not amount to the Sum of Forty Shillings or upwards; and that in all Cases where the Cause of Action should not amount to Ten Pounds or upwards in any such superior Court, or to Forty Shillings or upwards in any such inferior Court, and the Plaintiff or Plaintiffs should proceed by way of Process against the Person, he, she, or they should not arrest or cause to be arrested the Body of the Defendant or Defendants, but should serve him, her, or them personally within the Jurisdiction of the Court, with a Copy of the Process, and if such Defendant or Defendants should not appear at the Return of the Process, or within Four Days after such Return, in such case it should be lawful for the Plaintiff or Plaintiffs upon Affidavit being made and filed in the proper Court of the personal Service of such Process as aforesaid (which Affidavit should be filed *gratis*) to enter a common Appearance or file common Bail for the Defendant or Defendants, and to proceed thereon as if such Defendant or Defendants had entered his, her, or their Appearance or filed common Bail; which Act was explained and amended by an Act passed in the Fifth Year of the Reign of His Majesty King *George* the Second, intituled, *An Act to explain, amend, and render more effectual an Act made in the Twelfth Year of the Reign of His late Majesty King* George *the First, intituled,* ‘*An Act to prevent frivolous and* 12 G. 1. c. 29. 5 G. 2. c. 27.

‘*vexatious*

'*vexatious Arrests*:' And whereas by the said Act made in the Fifth Year of the Reign of His said late Majesty King *George* the Second, it was enacted, that where the Cause of Action should not amount to Ten Pounds or upwards in any superior Court, or to Forty Shillings or upwards in any inferior Court, no Special Writ or Writs, nor any Process specially therein expressing the Cause or Causes of Action, should be sued forth or issued from any such superior or inferior Court, to compel any Person or Persons to appear thereon in such Court or Courts; and all Proceedings and Judgements on any such Writ are thereby declared to be void and of none Effect: And whereas the said several Acts being temporary, the same were afterwards made perpetual by an Act passed in the Twentieth Year of the Reign of His said late Majesty King *George* the Second: And whereas by an Act passed in the Nineteenth Year of the Reign of His present Majesty,
19 G. 3. c. 70. intituled, *An Act for extending the Provisions of an Act made in the Twelfth Year of the Reign of King* George *the First, intituled,* '*An Act to prevent frivolous and vexatious Arrests, and for other Purposes*,' it was enacted, that from and after the First Day of *July* One thousand seven hundred and seventy-nine, no Person should be arrested or held to Special Bail upon any Process issuing out of any inferior Court, where the Cause of Action should not amount to the Sum of Ten Pounds or upwards, but that the like Copies of Process should be served, and the like Proceedings had thereupon in such inferior Court, in all Cases where the Cause of Action should not amount to Ten Pounds or upwards, as are directed to be had by the said Act of the Twelfth Year of the Reign of King *George* the First, in such inferior Court, where the Cause of Action should not amount to the Sum of Forty Shillings; any Law or Usage to the contrary notwithstanding; and further Provisions were made touching Proceedings in such inferior Courts, in conformity to the Provisions in the said former Act; and so much of any Act or Acts of Parliament passed for the Recovery of Debts within any Districts and Jurisdictions, as authorized Arrest and Imprisonment of Defendants where the Cause of Action should amount to less than Ten Pounds, was thereby repealed; and further Provisions were made touching Actions in inferior Courts, where the Cause of Action should not amount to Ten Pounds: And whereas by an Act passed in the
43 G. 3. c. 46. Forty-third Year of His Majesty's Reign, intituled, *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*, it was enacted, that from and after the First Day of *June* One thousand eight hundred and three, no Person should 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 was by the Laws then 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: And whereas it is expedient to extend and render more effectual the Provisions of the said recited Acts; 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,

No Person to be held to Special Bail, where the Cause of Action is under 15*l.* (except in certain Cases;) and Defendant not to be arrested.

That from and after the First Day of *November* One thousand eight hundred and eleven, no Person shall be held to Special Bail upon any Process issuing out of any Court where the Cause of Action shall not have originally amounted to the Sum of Fifteen Pounds or upwards, 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 (except where the Cause of such Action shall arise or be maintainable upon or by virtue of any Bill or Bills of Exchange, Promissory Note or Promissory Notes, in which Cases the Parties liable

thereupon may be held to Special Bail in such Manner as if this Act had not been made); and that in all Cases where the Cause of Action shall not amount to Fifteen Pounds or upwards, exclusive of such Costs, Charges, and Expences as aforesaid, (except as herein-before is excepted) and the Plaintiff or Plaintiffs shall proceed by the Way of Process against the Person, he, she, or they shall not arrest or cause to be arrested, the Body of the Defendant or Defendants, but shall serve him, her, or them personally within the Jurisdiction of the Court, with a Copy of the Process and Proceedings thereupon, in such Manner as by the said Act of the Twelfth Year of the Reign of His late Majesty King *George* the First, is provided in Cases where the Cause of Action shall not amount to Ten Pounds or upwards in any superior Court, or to Forty Shillings or upwards in any inferior Court; and that where the Cause of Action in any Court shall not amount to the Sum of Fifteen Pounds exclusive of such Costs, Charges and Expences as aforesaid, (except as herein-before is excepted) no Special Writ or Writs, nor any Process specially therein expressing the Cause or Causes of Action, shall, from and after the said First Day of *November*, be sued forth or issued from any Court, in order to compel any Person or Persons to appear thereon in such Court; and all Proceedings and Judgements that shall, from and after the said First Day of *November* be had on any such Writ or Process, shall be, and are hereby declared to be void and of no Effect.

No Special Writ to be sued forth, to compel Appearance; and all Proceedings on any such Writ or Process to be void.

II. And whereas the Provisions in the said Acts, authorizing Plaintiffs in Default of Appearance of Defendants to enter a common Appearance or file Common Bail as therein directed, are not deemed to extend to Proceedings by Original and other Writs, whereupon no Capias is issued, and it is expedient to extend the Provisions of the said former Acts to such Proceedings; be it further enacted by the Authority aforesaid, That in all Cases where the Plaintiff or Plaintiffs shall proceed by Original or other Writ and Summons, or Attachment thereupon, in any Action against any Person or Persons not having Privilege of Parliament, no Writ of Distringas shall issue for Default of Appearance, but the Defendant or Defendants shall be served personally with the Summons or Attachment, at the Foot of which shall be written a Notice informing the Defendant or Defendants of the Intent and Meaning of such Service, to the Effect following:

No Writ of Distringas to issue, for default of Appearance; but Defendant to be served personally with the Summons and a Notice to appear.

'C. D. [*naming the Defendant*] You are served with this Process at the Suit of *A. B.* [*naming the Plaintiff or Plaintiffs*] to the Intent that you may appear by your Attorney in His Majesty's Court of at *Westminster*, at the Return hereof, being the Day of in order to your Defence in this Action: And take Notice, that in Default of your Appearance, the said *A. B.* will cause an Appearance to be entered for you, and proceed thereon as if you had yourself appeared by your Attorney.'

Form of Notice where the Defendant cannot be personally served.

But in case it shall be made appear to the Satisfaction of the Court, or in the Vacation of any Judge of the Court, from which such Process shall issue, or into which the same shall be returnable, that the Defendant or Defendants could not be personally served with such Summons or Attachment, and that such Process had been duly executed at the Dwelling House or Place of Abode of such Defendant or Defendants, that then it shall and may be lawful for the Plaintiff or Plaintiffs, by Leave of the Court, or Order of such Judge as aforesaid, to sue out a Writ of Distringas to compel the Appearance of such Defendant or Defendants; and that at the Time of the Execution of such Writ of Distringas there shall be served on the Defendant or Defendants by the Officer executing such Writ, if he, she, or they can then be met with; and if he, she, or they cannot then be met with, there shall be left at his, her, or their Dwelling House or other Place where such Distringas shall be executed, a written Notice in the following Form:

When the Defendant does not appear, the Plaintiff may proceed.

'IN

'IN the Court of [*specifying the Court in which the Suit shall be depending*] between *A. B.* Plaintiff, and *C. D.* Defendant [*naming the Parties.*] Take Notice, that I have this Day distrained upon your Goods and Chattels for the Sum of Forty Shillings, in consequence of your not having appeared by your Attorney in the said Court, at the Return of a Writ of returnable there on the Day of and that in Default of your appearing to the present Writ of Distringas at the Return thereof, being the Day of the said *A. B.* will cause an Appearance to be entered for you, and proceed thereon, as if you had yourself appeared by your Attorney.

'*E. F.*

[*The Name of the Sheriff's Officer.*]

'To *C. D.* the above named Defendant.'

And if such Defendant or Defendants shall not appear at the Return of such Original or other Writ, or of such Distringas, as the Case may be, or within Eight Days after the Return thereof, in such Case it shall and may be lawful to and for the Plaintiff or Plaintiffs, upon Affidavit being made and filed in the proper Court of the Personal Service of such Summons or Attachment, and Notice written on the Foot thereof as aforesaid, or of the due Execution of such Distringas, and of the Service of such Notice as is hereby directed on the Execution of such Distringas, as the Case may be, to enter a Common Appearance for the Defendant or Defendants, and to proceed thereon, as if such Defendant or Defendants had entered his, her, or their Appearance, any Law or Usage to the contrary notwithstanding; and that such Affidavit or Affidavits may be made before any Judge or Commissioner of the Court, out of or into which such Writs shall issue or be returnable, authorized to take Affidavits in such Court, or else before the proper Officer for entering common Appearances in such Court, or his lawful Deputy, and which Affidavit is hereby directed to be filed *gratis*.

Provisions of 19 G. 3. respecting Actions for Sums less than 10l. extended to Sums under 20l.

III. And be it further enacted, That all and every the Provisions contained in the said Act of the Nineteenth Year of the Reign of His present Majesty, respecting Actions in inferior Courts, where the Cause of Action should amount to less than Ten Pounds, shall be and the same are hereby, from and after the said First Day of *November* extended to all Actions in such Courts where the Cause of Action shall not amount to Fifteen Pounds, exclusive of such Costs, Charges, and Expences as aforesaid (except where the Cause of such Action shall arise or be maintainable upon or by virtue of any Bill or Bills of Exchange, Promissory Note or Promissory Notes, in which Cases the Parties liable thereupon may be held to Special Bail, in such Manner as if this Act had not been made;) and that so much of any Act or Acts of Parliament, heretofore passed for the Recovery of Debts within certain Districts and Jurisdictions, which may have authorized the Arrest and Imprisonment of Defendants, where the Cause of Action amounts to less than Fifteen Pounds, exclusive of such Costs, Charges, and Expences as aforesaid, shall be and the same is hereby, from and after the First Day of *November* repealed.

So much of Acts authorizing Arrests contrary to the above, repealed.

Act not to extend to Scotland and Ireland.

IV. Provided always, That nothing in this Act contained shall extend or be construed to extend to those Parts of the United Kingdom called *Scotland* and *Ireland*.

Continuance of the Act.

V. Provided always, and be it enacted, That this Act shall continue and be in Force until the First Day of *November* in the Year One thousand eight hundred and sixteen, and thenceforth until the End of the then next Session of Parliament, and no longer.

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