ANNO DECIMO

GEORGII IV. REGIS.

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C A P. XXXV.

An Act to prevent Arrests upon Mesne Process where the Debt or Cause of Action is under Twenty Pounds, and to regulate the Practice of Arrests, in *Ireland*. [4th *June* 1829.]

WHEREAS by an Act passed in the Parliament of the United Kingdom in the Forty-third Year of the Reign of His late Majesty King *George* the Third, intituled *An* 43 G.3. c.46.
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 amongst other Things 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 might have been incurred, recovered, or become chargeable in or about the suing for or recovering the same or any Part thereof: And whereas by an Act passed in the same Year, intituled *An Act to* 43 G.3. c.53.
render the Process of His Majesty's Courts of King's Bench, Common Pleas, and Exchequer, in Personal Actions in Ireland, *more beneficial, and also to prevent frivolous and vexatious Arrests; and to repeal so much of an Act passed in the Parliament of* Ireland *in the Twenty-first and*

Twenty-second Years of the Reign of His present Majesty, intituled 'An 'Act for enlarging the Time for Trials by Nisi Prius in the City and 'County of Dublin, *and for making the Process of the Court of Exchequer 'more effectual, as relates to compelling the Appearance of Defendants 'in Personal Actions,'* it is amongst other Things enacted, that from and after the First Day of *Michaelmas* Term in the Year One thousand eight hundred and three no Person shall be held to Special Bail upon any Process issuing out of His Majesty's Court of King's Bench, Common Pleas, or Exchequer, in that Part of the said United Kingdom called *Ireland*, where the Cause of Action shall not amount to the Sum of Ten Pounds or upwards, nor out of any inferior Court where the Cause of Action shall not amount to the Sum of Forty Shillings or upwards; and that in all Cases where the Cause of Action shall not amount to the Sum of Ten Pounds or upwards in any of the said superior Courts, or to Forty Shillings or upwards in any such inferior Courts, (and the Plaintiff or Plaintiffs shall proceed by 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 with a Copy of the Process; and if such Defendant or Defendants shall not appear at the Return of the Process, or within Eight Days after such Return, in such Case it shall and may 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 said Affidavit shall 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; any Law or Usage to the contrary notwithstanding: 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, That from and after the First Day of *August* One thousand eight hundred and twenty-nine no Person shall be held to Special Bail upon any Process issuing out of any Court in *Ireland*, where the Cause of Action shall not have originally amounted to the Sum of Twenty 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; and that in all Cases where the Cause of Action shall not amount to Twenty Pounds or upwards, exclusive of such Costs, Charges, and Expences as aforesaid, 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 with a Copy of the Process and Proceedings thereupon, in such Manner as by the said last recited Act of the Forty-third Year of the Reign of His late Majesty King *George* the Third 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 Twenty Pounds, exclusive of

No Person to be held to Bail where Cause of Action does not amount to 20*l.*

such Costs, Charges, and Expences as aforesaid, 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 *August* 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 Judgments that shall from and after the said First Day of *August* be had on any such Writ or Process shall be and are hereby declared to be void and of no Effect.

Defendant discharged from Arrest upon making Deposit with the Sheriff, pursuant to 43 G. 3. c. 46. may, instead of perfecting Special Bail, allow the Deposit to be paid into Court;

II. And whereas by the said first-recited Act passed in the Forty-third Year of the Reign of His late Majesty King *George* the Third Persons arrested upon Mesne Process were enabled, in lieu of giving Bail to the Sheriff, to deposit in the Hands of the Sheriff the Sum indorsed upon the Writ, together with Ten Pounds in addition to such Sum to answer the Costs which might accrue up to the Time of the Return of the Writ, and also such further Sum, if any, as should have been paid for the King's Fine upon any original Writ, and should thereupon be discharged from such Arrest: And whereas it is expedient to extend the Provisions of the said last-mentioned Act, and to enable Persons who have been arrested to deposit or pay into the Court in which the Writ shall be returnable the Sum indorsed upon the Writ, together with an additional Sum as a Security for Costs, to abide the Event of the Suit, instead of putting in and perfecting Bail in the said Action; be it therefore enacted, That in all Cases in which any Defendant shall have been discharged from Arrest, upon making such Deposit as is required by the said last-mentioned Act, and the Sum so deposited shall have been paid into Court, it shall be lawful for such Defendant, instead of putting in and perfecting Special Bail in the Action, according to the Course and Practice of the Court, to allow the Sum so deposited with the Sheriff, and by him paid into Court as aforesaid, together with the additional Sum of Ten Pounds to be paid into Court by such Defendant as a further Security for the Costs of the Action, to remain in the Court to abide the Event of the Suit; and in all Cases where any Defendant shall have been arrested and shall have given Bail to the Sheriff, or shall have been arrested and remain in Custody, it shall be lawful for such last-mentioned Defendant, instead of putting in and perfecting Special Bail, to deposit and pay into the said Court the Sum indorsed upon the Writ, together with the Amount of the King's Fine, if any, upon the original Writ, and the further Sum of Twenty Pounds as a Security for the Costs of the Action, there to remain to abide the Event of the Suit; and thereupon the said Defendant may and he is hereby required to enter a Common Appearance or file Common Bail in the Action, within such Time as he would have been required to have put in and perfected Special Bail in the Action, according to the Course of the said Court, or, in Default thereof, the Plaintiff in the Action is hereby empowered to enter such Common Appearance or file Common Bail for the said Defendant, and the Cause may proceed as if the Defendant had put in and perfected Special Bail; and in case Judgment in the said Action shall be given for the Plaintiff, he shall be entitled, by Order of the Court, upon Motion made for that Purpose, to receive the said Money so remaining in or so deposited

or if he remains in Custody, or gives Bail to the Sheriff, he may pay the Debt into Court, with 20*l.* to answer Costs, and file Common Bail.

or

or paid into the Court as aforesaid, or so much thereof as will be sufficient to satisfy the Sum recovered by the Judgment, and the Costs of the Application; and if Judgment be given in the said Action for the Defendant, or the Plaintiff discontinue his Suit, or be otherwise barred, or in case the Sum deposited and paid into Court be more than sufficient to satisfy the Plaintiff, the said Money so deposited or paid into Court, or so much thereof as shall remain, shall, by Order of the Court, upon Motion to be made for that Purpose, be repaid to such Defendant.

Defendant may receive such Deposit and Payment out of Court upon perfecting Special Bail.

III. Provided always, and be it enacted, That it shall and may be lawful for the said Defendant who hath made his Election to make such Deposit and Payment as aforesaid, at any Time in the Progress of the Cause before Issue joined in Law or Fact, or final or interlocutory Judgment signed, to receive the same out of Court, by Order of the said Court, upon putting in and perfecting Special Bail in the Cause, and Payment of such Costs to the Plaintiff as the said Court shall direct.

Defendant who has perfected Special Bail may lodge Money in Court, and obtain Execution on the Bailpiece.

IV. Provided also, and be it further enacted, That it shall and may be lawful for any Defendant who shall have put in and perfected Special Bail in any Cause, upon Motion to the Court in which the Action is brought, if the Court shall so think fit, to deposit and pay into Court the Sum which would have been deposited and paid in case the Defendant had originally elected so to do, together with such further Sum to answer the Costs as the Court may direct, to abide the Event of the said Suit, and to be disposed of in manner aforesaid; and thereupon it shall be lawful for the said Court to direct a Common Appearance to be entered or Common Bail to be filed for the Defendant, and an Execution to be entered upon the Bail-piece in the said Cause.

Repeal of Acts authorizing Arrests where Cause of Action amounts to less than 20*l.*

V. And be it further enacted, That so much of any Act or Acts heretofore passed for the Recovery of Debts within certain Districts and Jurisdictions, which may have authorized the Arrest and Imprisonment of Defendants when the Cause of Action amounts to less than Twenty Pounds, exclusive of such Costs, Charges, and Expences as aforesaid, shall be and the same is hereby, from and after the said First Day of *August*, repealed.

Act to extend only to Ireland.

VI. Provided always, That the Provisions of this Act shall extend only to that Part of the United Kingdom called *Ireland*.

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