ANNO QUINQUAGESIMO SEXTO

GEORGII III. REGIS.

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C A P. C.

An Act for more effectually securing the Liberty of the Subject. [1st *July* 1816.]

WHEREAS the Writ of *Habeas Corpus* hath been found by Experience to be an expeditious and effectual Method of restoring any Person to his Liberty, who hath been unjustly deprived thereof: And whereas extending the Remedy of such Writ, and enforcing Obedience thereunto, and preventing Delays in the Execution thereof, will be advantageous to the Public: And whereas the Provisions made by an Act passed in *England* in the Thirty-first Year of King *Charles* the Second, intituled *An Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonment beyond the Seas*, and also by an Act passed in *Ireland* in the Twenty-first and Twenty-second Years of His present Majesty, intituled *An Act for better securing the Liberty of the Subject*, only extend to Cases of Commitment or Detainer for criminal or supposed criminal Matter; 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 where any Person shall be confined or restrained of his or her Liberty (otherwise than for some criminal or supposed criminal Matter, and except Persons imprisoned for Debt or by Process in any civil Suit) within that Part of *Great Britain* called *England*, Dominion of *Wales*, or Town of *Berwick-upon-Tweed*, or the Isles of *Jersey*, *Guernsey*, or *Man*, it shall and may be lawful for any One of the Barons of the Exchequer, of the Degree of the Coif, as well as for any One of

31 Car. 2. c. 2.

Irish Act, 21 & 22 G. 3.

Judges, to issue, in Vacation, Writs of Habeas Corpus returnable immediately, in Cases other than for Criminal Matter, or for Debt.

of the Juſtices of One Bench or the other; and where any Perſon ſhall be ſo confined in *Ireland*, it ſhall and may be lawful for any One of the Barons of the Exchequer, or of the Juſtices of One Bench or the other in *Ireland*; and they are hereby required, upon Complaint made to them by or on the Behalf of the Perſon ſo confined or reſtrained, if it ſhall appear by Affidavit or Affirmation (in Caſes where by Law an Affirmation is allowed) that there is a probable and reaſonable Ground for ſuch Complaint, to award in Vacation Time, a Writ of *Habeas Corpus ad ſubjiciendum*, under the Seal of ſuch Court, whereof he or they ſhall then be Judges or One of the Judges, to be directed to the Perſon or Perſons in whoſe Cuſtody or Power the Party ſo confined or reſtrained ſhall be, returnable immediately before the Perſon ſo awarding the ſame, or before any other Judge of the Court under the Seal of which the ſaid Writ iſſued.

Non-obedience to ſuch Writ, to be a Contempt of Court, and puniſhable accordingly.

II. And be it further enacted by the Authority aforeſaid, That if the Perſon or Perſons to whom any Writ of *Habeas Corpus* ſhall be directed according to the Proviſion of this Act, upon Service of ſuch Writ, either by the actual Delivery thereof to him, her, or them, or by leaving the ſame at the Place where the Party ſhall be confined or reſtrained, with any Servant or Agent of the Perſon or Perſons ſo confining or reſtraining, ſhall wilfully neglect or refuſe to make a Return or pay Obedience thereto, he, ſhe, or they ſhall be deemed guilty of a Contempt of the Court, under the Seal whereof ſuch Writ ſhall have iſſued; and it ſhall be lawful to and for the ſaid Juſtice or Baron, before whom ſuch Writ ſhall be returnable, upon Proof made by Affidavit of wilful Diſobedience of the ſaid Writ, to iſſue a Warrant under his Hand and Seal, for the apprehending and bringing before him, or before ſome other Juſtice or Baron of the ſame Court, the Perſon or Perſons ſo wilfully diſobeying the ſaid Writ, in order to his, her, or their being bound to the King's Majeſty, with Two ſufficient Sureties, in ſuch Sum as in the Warrant ſhall be expreſſed, with Condition to appear in the Court of which the ſaid Juſtice or Baron is a Judge, at a Day in the enſuing Term to be mentioned in the ſaid Warrant, to anſwer the Matter of Contempt with which he, ſhe, or they are charged; and in caſe of Neglect or Refuſal to become bound as aforeſaid, it ſhall be lawful for ſuch Juſtice or Baron to commit ſuch Perſon or Perſons ſo neglecting or refuſing, to the Jail or Priſon of the Court of which ſuch Juſtice or Baron ſhall be a Judge, there to remain until he, ſhe, or they ſhall have become bound as aforeſaid, or ſhall be diſcharged by Order of the Court in Term Time, or by Order of one of the Juſtices or Barons of the Court in Vacation; and the Recognizance or Recognizances to be taken thereupon ſhall be returned and filed in the ſame Court, and ſhall continue in force until the Matter of ſuch Contempt ſhall have been heard and determined, unleſs ſooner ordered by the Court to be diſcharged: Provided, that if ſuch Writ ſhall be awarded ſo late in the Vacation by any one of the ſaid Juſtices or Barons, that, in his Opinion, Obedience thereto cannot be conveniently paid during ſuch Vacation, the ſame ſhall and may, at his Diſcretion, be made returnable in the Court of which the ſaid Juſtice or Baron ſhall be a Juſtice or Baron, at a Day certain in the next Term; and the ſaid Court ſhall and may proceed thereupon, and award Proceſs of Contempt in caſe of Diſobedience thereto, in like Manner as upon Diſobedience to any Writ originally awarded by the ſaid Court: Provided alſo, that if ſuch Writ ſhall be awarded by the Court of King's Bench, or

Judges to make Writs of Habeas Corpus, iſſued in Vacation, returnable in Court in the next Term.

the Court of Common Pleas, or Court of Exchequer, in the ſaid Countries reſpectively, which laſt-mentioned Court ſhall have like Power to award ſuch Writs as the reſpective Courts of King's Bench and Common Pleas in each of the ſaid Countries now have, in Term, but ſo late that, in the Judgement of the Court, Obedience thereto cannot be conveniently paid during ſuch Term, the ſame ſhall and may, at the Diſcretion of the ſaid Court, be made returnable at a Day certain in the then next Vacation, before any Juſtice or Baron of the Degree of the Coif, or if in *Ireland*, before any Juſtice or Baron of the ſame Court, who ſhall and may proceed thereupon, in ſuch Manner as by this Act is directed concerning Writs iſſuing in and made returnable during the Vacation.

Courts to make Writs iſſued in Term, returnable in Vacation.

III. And be it further enacted by the Authority aforeſaid, That in all Caſes provided for by this Act, although the Return to any Writ of *Habeas Corpus* ſhall be good and ſufficient in Law, it ſhall be lawful for the Juſtice or Baron before whom ſuch Writ may be returnable, to proceed to examine into the Truth of the Facts ſet forth in ſuch Return, by Affidavit or by Affirmation (in Caſes where an Affirmation is allowed by Law) and to do therein as to Juſtice ſhall appertain; and if ſuch Writ ſhall be returned before any One of the ſaid Juſtices or Barons, and it ſhall appear doubtful to him on ſuch Examination, whether the material Facts ſet forth in the ſaid Return, or any of them, be true or not; in ſuch Caſe it ſhall and may be lawful for the ſaid Juſtice or Baron to let to bail the ſaid Perſon ſo confined or reſtrained, upon his or her entering into a Recognizance with One or more Sureties, or in caſe of Infancy or Coverture, or other Diſability, upon Security by Recognizance, in a reaſonable Sum, to appear in the Court of which the ſaid Juſtice or Baron ſhall be a Juſtice or Baron, upon a Day certain in the Term following, and ſo from Day to Day as the Court ſhall require, and to abide ſuch Order as the Court ſhall make in and concerning the Premiſes; and ſuch Juſtice or Baron ſhall tranſmit into the ſame Court the ſaid Writ and Return, together with ſuch Recognizance, Affidavits, and Affirmations; and thereupon it ſhall be lawful for the ſaid Court to proceed to examine into the Truth of the Facts ſet forth in the Return, in a ſummary Way by Affidavit or Affirmation (in Caſes where by Law, Affirmation is allowed), and to order and determine touching the diſcharging, bailing, or remanding the Party.

Judges to inquire into the Truth of Facts contained in Return.

Judge to bail on Recognizance to appear in Term, &c.

IV. And be it further enacted by the Authority aforeſaid, That the like Proceeding may be had in the Court for controverting the Truth of the Return to any ſuch Writ of *Habeas Corpus*, awarded as aforeſaid, although ſuch Writ ſhall be awarded by the ſaid Court itſelf, or be returnable therein.

Court may controvert the Truth of the Return.

V. And be it declared and enacted by the Authority aforeſaid, That a Writ of *Habeas Corpus*, according to the true Intent and Meaning of this Act, may be directed and run into any County Palatine or Cinque Port, or any other privileged Place within that Part of *Great Britain* called *England*, Dominion of *Wales*, and Town of *Berwick-upon-Tweed*, and the Iſles of *Jerſey*, *Guernſey*, and *Man*, reſpectively; and alſo into any Port, Harbour, Road, Creek, or Bay, upon the Coaſt of *England* or *Wales*, although the ſame ſhould lie out of the Body of any County; and if ſuch Writ ſhall iſſue in *Ireland*, the ſame may be directed and run into any Port, Harbour, Road, Creek or Bay, although the ſame ſhould not be in the Body

Writ may run into Counties Palatine, Cinque Ports, and privileged Places, &c.

Body of any County; any Law or Uſage to the contrary in anywiſe notwithſtanding.

Proceſs of Contempt may be awarded in Vacation againſt Perſons diſobeying Writs of Habeas Corpus in Caſes within Stat. 31 Car. 2. c. 2.

VI. And be it further enacted by the Authority aforeſaid, That the ſeveral Proviſions made in this Act, touching the making Writs of *Habeas Corpus*, iſſuing in Time of Vacation, returnable into the ſaid Courts, or for making ſuch Writs awarded in Term Time, returnable in Vacation, as the Caſes may reſpectively happen, and alſo for making wilful Diſobedience thereto a Contempt of the Court, and for iſſuing Warrants to apprehend and bring before the ſaid Juſtices or Barons, or any of them, any Perſon or Perſons wilfully diſobeying any ſuch Writ; and in caſe of Neglect or Refuſal to become bound as aforeſaid, for committing the Perſon or Perſons ſo neglecting or refuſing to Jail as aforeſaid, reſpecting the Recognizances to be taken as aforeſaid, and the Proceeding or Proceedings thereon, ſhall extend to all Writs of *Habeas Corpus* awarded in purſuance of the ſaid Act, paſſed in *England* in the Thirty-firſt Year of the Reign of King *Charles* the Second, or of the ſaid Act paſſed in *Ireland* in the Twenty-firſt and Twenty-ſecond Years of His preſent Majeſty, and herein-before recited, in as ample and beneficial a Manner as if ſuch Writs and the ſaid Caſes ariſing thereon had been herein-before ſpecially named and provided for reſpectively.

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