ANNO QUADRAGESIMO QUINTO

GEORGII III. REGIS.

CAP. XCII.

An Act to amend Two Acts of the Thirteenth and Forty-fourth Years of His present Majesty, for the more effectual Execution of the Criminal Laws, and more easy apprehending and bringing to Trial Offenders escaping from one Part of the United Kingdom to the other, and from one County to another. [10th *July* 1805.]

WHEREAS by an Act, passed in the Thirteenth Year of His present Majesty's Reign, intituled, *An Act for the more effectual Execution of the Criminal Laws in the Two Parts of the United Kingdom*; and by another Act, passed in the Forty-fourth Year of His present Majesty's Reign, intituled, *An Act to render more easy the apprehending and bringing to Trial Offenders escaping from one Part of the United Kingdom to the other, and also from one County to another*; Provision is made for the apprehending of Offenders in *England*, *Scotland*, and *Ireland* respectively, so that such Offenders may be apprehended in one of the said Parts of the United Kingdom for Offences charged to have been committed within either of the other Parts of the same: And whereas there is no Provision made in the said Acts for admitting such Persons to Bail, who may be so apprehended for Offences which by Law are bailable: 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 in case any Person or Persons shall be apprehended in one of the said Parts of the United Kingdom for an Offence

13 G. 3. c. 31.

44 G. 3. c. 92.

Admitting Persons to Bail, if the

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Offence is not bailable by Law

Offence which was committed, or charged to have been committed, in either of the other Parts of the ſame, under any Warrant indorſed in ſuch Manner as is in that Reſpect provided by virtue of either of the ſaid recited Acts, ſuch Perſon or Perſons ſhall and may be taken before the Judge or Juſtice who indorſed the ſaid Warrant, or before ſome other Juſtice or Juſtices of the County, Stewartry, City, Liberty, Town, or Place where the ſame was indorſed; and in caſe the Offence be bailable in Law, and ſuch Offender or Offenders ſhall be willing and ready to give Bail for his, her, or their Appearance, according to the Exigence of the ſaid Warrant, ſuch Judge or Juſtice or Juſtices by whom ſuch Warrant was indorſed, or before whom any ſuch Offender or Offenders ſhall be brought, ſhall and may proceed with ſuch Offender or Offenders, and take Bail for him, her, or them, according to the Exigence of the ſaid Warrant, in the ſame Manner as the Judge or Juſtice who originally iſſued the ſame ſhould or might have done; and ſuch Judge or Juſtice or Juſtices ſo taking Bail as aforeſaid ſhall take the Recognizance or Bail Bond of the ſaid Offender or Offenders, and of his, her, or their Bail, in Duplicate, and ſhall deliver one of ſuch Duplicates to the Conſtable, or other Officer or Officers, or Perſon or Perſons ſo apprehending ſuch Offender or Offenders as aforeſaid, who are hereby required to receive the ſame, and to deliver, or cauſe to be delivered ſuch Recognizance or Bail Bond to the Clerk of the Crown, or Clerk of the Peace, or other proper Officer for receiving the ſame, belonging to the Court in which by ſuch Recognizance or Bail Bond ſuch Offender or Offenders ſhall be bound to appear, and ſuch Recognizance or Bail Bond ſhall be as good and effectual in Law, to all Intents and Purpoſes, and of the ſame Force and Validity, as if the ſame had been entered into, taken, or acknowledged before a Judge or Juſtice or Juſtices of the Peace of the County, Stewartry, City, Town, Liberty, or Place, where the Offence was committed; and the ſaid Judge or Juſtice or Juſtices ſo taking Bail as aforeſaid, ſhall tranſmit the other of ſuch Duplicates to the Court of Exchequer of ſuch Part of the United Kingdom in which ſuch Bail ſhall be taken, there to be kept of Record; and it ſhall and may be lawful for the Court, in which any Perſon ſo bound to appear ſhall forfeit his or her ſaid Recognizance or Bail Bond, to tranſmit a Certificate, teſtifying the Forfeiture thereof, under the Seal of the Court, or under the Hand and Seal of one of the Judges or Juſtices of the ſame, to the Court of Exchequer, in that Part of the United Kingdom in which ſuch Recognizance or Bail Bond ſhall have been taken; and it ſhall and may be lawful for ſuch Court of Exchequer to proceed upon ſuch Certificate to levy the Sum ſo forfeited, in the ſame Manner in which they may proceed upon any Recognizance or Bail Bond, taken and forfeited within the ſame Part of the United Kingdom, and eſtreated in due courſe into the ſaid Court: Provided always, that if ſuch Offence be not bailable in Law, or ſuch Offender or Offenders ſhall not give Bail for his, her, or their Appearance, according to the Exigence of ſuch Warrant, the ſaid Judge or Juſtice or Juſtices before whom ſuch Offender or Offenders ſhall be brought, ſhall remand him, her, or them to the Cuſtody of the Conſtable or other Officer or Perſon who ſhall have apprehended ſuch Offender or Offenders, and ſuch Conſtable, Officer, or other Perſon ſhall proceed to convey ſuch Offender or Offenders into that Part of the United Kingdom wherein the Offence was committed, by ſuch Ways and Means as are provided by the ſaid recited Acts reſpectively.

If the Offence is not bailable, to be remanded into Cuſtody to be conveyed to the Part where the ſame was committed.

II. And

II. And whereas it may happen by reason of the Difference in the Law prevailing in the said different Parts of the United Kingdom, that the Judge or Justice or Justices before whom any Offender or Offenders shall be brought, under such Warrant so indorsed, may not know whether the Offence mentioned in such Warrant be or be not bailable; for the better Information therefore of such Judge or Justice or Justices in that Particular, be it further enacted, That in case any Person suing out such Warrant shall shew, by Affidavit or otherwise, to the Satisfaction of the Judge or Justice granting such Warrant, that it may be necessary to execute such Warrant in a Part of the United Kingdom different from that in which such Warrant is issued, and it shall appear also to the Judge or Justice granting such Warrant, that it is granted for an Offence for which it would not be lawful for any Judge or Justice or Justices, before whom such Offender or Offenders might be brought, by reason of the Indorsement of such Warrant as directed by the said recited Acts, to admit such Offender or Offenders to Bail, such Judge or Justice granting such Warrant, shall, upon the Face of such Warrant, write the Words "not bailable;" and in all Cases in which such Words shall not have been so written, it shall and may be lawful for the Judge or Justice or Justices, before whom any Offender or Offenders may be brought under such Warrant so indorsed, to admit such Offender or Offenders to Bail.

In Cases where it appears to the Justices not bailable, the Words "not bailable" to be written on the Face of the Warrant.

III. And whereas it is fit to provide for the Appearance of Persons to answer in Cases where Warrants are not usually issued, and to give Evidence in Criminal Prosecutions in every Part of the United Kingdom; be it further enacted, That the Service of every Writ of Subpœna, or other Process, upon any Person, in any one of the Parts of the United Kingdom, requiring the Appearance of such Person to answer or give Evidence in any Criminal Prosecution in any other of the Parts of the same, shall be as good and effectual in Law as if the same had been served in that Part of the United Kingdom where the Person so served is required to appear; and in case such Person so served shall not appear according to the Exigence of such Writ or Process, it shall be lawful for the Court out of which the same issued, upon Proof made of the Service thereof, to the Satisfaction of the said Court, to transmit a Certificate of such Default under the Seal of the same Court, or under the Hand of One of the Judges or Justices of the same, to the Court of King's Bench in *England* in case such Service was had in *England*, or in case such Service was had in *Scotland*, to the Court of Justiciary in *Scotland*, or in case such Service was had in *Ireland*, to the Court of King's Bench in *Ireland*; and the said last mentioned Courts respectively shall and may thereupon proceed against and punish the Person so having made Default, in like Manner as they might have done if such Person had neglected or refused to appear in obedience to a Writ of Subpœna or other Process issued out of such last mentioned Courts respectively.

Services of Subpœna in any Part of the United Kingdom valid as to Appearance in any other Part.

IV. Provided always, and be it further enacted, That none of such last mentioned Courts shall in any Case proceed against or punish any Person for having made Default by not appearing to give Evidence in obedience to any Writ of Subpœna or other Process for that Purpose, unless it shall be made to appear to such Court that a reasonable and sufficient Sum of Money to defray the Expences of coming and attending to give Evidence,

Expence of Attendance on Writs of Subpœna to be tendered.

and

and of returning from giving such Evidence, had been tendered to such Person at the Time when such Writ of Subpœna or other Process was served upon such Person;

In what Cases Judges are to indorse Warrants.

V. Provided always, and it is hereby further enacted, That it shall not be lawful for any Judge or Justice to indorse by virtue of either of the said recited Acts or this Act any Warrant, unless the same shall appear to have issued, if in *England* or *Ireland* upon some Indictment found or Information filed, or if in *Scotland* upon some Libel or Criminal Letters raised and passed under the Signet of the Court of Justiciary, against the Person or Persons named in such Warrant, or unless the same shall appear to have issued in respect of some Capital Crime or Felony mentioned in such Warrant; any Thing in this and the said recited Acts contained to the contrary notwithstanding.

Proof necessary before Warrants are acted upon.

VI. And be it further enacted and declared, That in all Cases in which any Warrant or Certificate shall, by virtue of either of the said recited Acts or this Act, be required to be acted upon in any Part of the United Kingdom, other than that in which the same was originally issued, it shall not be lawful for any Court, or any Judge or Justice to proceed to enforce or act upon the same, until it shall be proved upon Oath to such Court, Judge, or Justice, that the Seal, Signet, and Signature upon the same, are the Seal, Signet, and Signature respectively of the Court, Judge, or Justice, whose Seal, Signet, and Signature, the same respectively shall purport to be.

Prosecutions depending not to be affected.

VII. Provided always, and be it enacted, That nothing in this Act contained shall, with respect to any Prosecution depending before the passing of this Act, be deemed or taken by any Court to alter or affect in any Manner the Construction of the said Act of the Forty-fourth Year of His Majesty's Reign, if any Question should arise whether such Prosecution be authorized by the true Intent and Meaning of the said Act.

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