

force of which, heretofore but feebly challenged by counsel, have been time and again judicially approved—could not be better expressed, could not appropriate a fitter garb than is shown by the crisp, all-satisfying sentence from *Withers v. Henley*, Croke 379, (honored and venerable record): “Every unlawful detainer of a prisoner, after he has gained a right to be discharged, constitutes a fresh imprisonment.”

In *Lyford v. Tyrrell*, 1 Aust. 85, the Court held that a party, to facilitate whose arrest on criminal process the following day, had been taken in charge on civil process on a Sunday—a prohibited course in this regard—was entitled to be discharged altogether.

Again, in *Wells v. Gurney*, 8 B. & C. 769, the Court, confronted with the converse state of facts—a specious arrest on criminal process made upon a Sunday, so as to permit of a taking into custody on valid civil process on the Monday—in distinctly forcible fashion, and by reasoning certainly as lucid as that discernible in *Lyford v. Tyrrell*, justify their finding that the concerted artifice disclosed was a glaring abuse of authority. *Birch v. Prodger*, 1 New R. 135—another luminous case—adopts the same position as that assumed in *Lyford v. Tyrrell*, reliance being had on the near identity of circumstances in each.

In *Eggington's Case*, 2 Ell. & B. 717, it was, with fuller, still more powerful argumentation, ruled that, where a defendant had been improperly apprehended on civil process, on a Sunday, he could not be detained, for the same cause, on subsequent legal warrants sought to be lodged against him. Moreover, could there be language more explicit than that employed in *Percival v. Stamp*, 9 Exch. 171: “If the sheriff make an arrest on . . . an invalid warrant, this gave him no right to detain the party on any other valid writs which might be at that time in his hands; for the sheriff could not avail himself of a custody brought about by illegal means to execute the other writs.” “If an arrest was made on a Sunday, or in a way not authorized by law, the sheriff could not afterwards make that valid by detaining the person under a legal writ.”