CAP. XCIV.

An Act to remove Doubts as to the Exercise of Power and Jurisdiction by Her Majesty within divers Countries and Places out of Her Majesty's Dominions, and to render the same more effectual.

[24th *August* 1843.]

'WHEREAS by Treaty, Capitulation, Grant, Usage, Sufferance, and other lawful Means Her Majesty hath Power and Jurisdiction within divers Countries and Places out of Her Majesty's Dominions: And whereas Doubts have arisen how far the Exercise of such Power and Jurisdiction is controlled by and dependent on the Laws and Customs of this Realm, and it is expedient that such Doubts should be removed:' Be it therefore enacted by the Queen'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 it is and shall be lawful for Her Majesty to hold, exercise, and enjoy any Power or Jurisdiction which Her Majesty now hath or may at any Time hereafter have within any Country or Place out of Her Majesty's Dominions, in the same and as ample a Manner as if Her Majesty had acquired such Power or Jurisdiction by the Cession or Conquest of Territory.

The Power acquired by Her Majesty in Countries out of Her Dominions shall be held on the same Terms as Her Majesty's Authority in the Crown Colonies.

II. And be it enacted, That every Act, Matter, and Thing which may at any Time be done, in pursuance of any such Power or Jurisdiction of Her Majesty, in any Country or Place out of Her Majesty's Dominions, shall, in all Courts Ecclesiastical and Temporal and elsewhere within Her Majesty's Dominions, be and be deemed and adjudged to be, in all Cases and to all Intents and Purposes whatsoever, as valid and effectual as though the same had been done according to the local Law then in force within such Country or Place.

Acts done in pursuance of such Power to be of the same Effect as if done under local Laws.

III. And be it enacted, That if in any Suit or other Proceedings, whether Civil or Criminal, in any Court Ecclesiastical or Temporal within Her Majesty's Dominions, any Issue or Question of Law or Fact shall arise, for the due Determination whereof it shall, in the Opinion of the Judge or Judges of such Court, be necessary to produce Evidence of the Existence of any such Power or Jurisdiction as aforesaid, or of the Extent thereof, it shall be lawful for the Judge or Judges of any such Court, and he or they are hereby authorized, to transmit, under his or their Hand and Seal or Hands and Seals, to One of Her Majesty's Principal Secretaries of State, Questions by him or them properly framed respecting such of the Matters aforesaid as it may be necessary to ascertain in order to the due Determination of any such Issue or Question as aforesaid; and such Secretary of State is hereby empowered and required, within a reasonable Time in that Behalf, to cause proper and sufficient Answers to be returned to all such Questions, and to be

Courts authorized to procure Evidence of such Power by Application to Secretary of State.

be directed to the said Judge or Judges, or their Successors; and such Answers shall, upon Production thereof, be final and conclusive Evidence, in such Suit or other Proceedings, of the several Matters therein contained and required to be ascertained thereby.

Power to send Persons charged with Crimes for Trial to a British Colony.

IV. 'And whereas it may in certain Cases be expedient that 'Crimes and Offences committed within such Countries or 'Places as aforesaid shall be inquired of, tried, determined, 'and punished within Her Majesty's Dominions;' be it enacted, That it shall and may be lawful for any Person having Authority derived from Her Majesty in that Behalf, by Warrant under his Hand and Seal, to cause any Person charged with the Commission of any Crime or Offence the Cognizance whereof may at any Time appertain to any Judge, Magistrate, or other Officer of Her Majesty within any such Country or Place as aforesaid, to be sent for Trial to any *British* Colony which Her Majesty may by any Order or Orders in Council from Time to Time appoint in that Behalf; and upon the Arrival of such Person within such Colony it shall and may be lawful for the Supreme Court exercising Criminal Jurisdiction within the same to cause such Person to be kept in safe and proper Custody, and, so soon as conveniently may be, to inquire of, try, and determine such Crime or Offence, and upon Conviction of the Person so charged as aforesaid to correct and punish him according to the Laws in force in that Behalf within such Colony, in the same Manner as if the said Crime or Offence had been committed within the Jurisdiction of such Supreme Court: Provided always, that before any such Person shall be sent for Trial to any such Colony as aforesaid it shall be lawful for him to tender for Examination to the Judge, Magistrate, or other Officer of Her Majesty to whom the Cognizance of the Crime or Offence with which he is charged may appertain, within the Country or Place where the same may be alleged to have been committed, any competent Witness or Witnesses, the Evidence of whom he may deem material for his Defence, and whom he may allege himself to be unable to produce at his Trial in the said Colony; and the said Judge, Magistrate, or other Officer shall thereupon proceed in the Examination and Cross-examination of such Witness or Witnesses in the same Manner as though the same had been tendered at a Trial before such Judge, Magistrate, or other Officer, and shall cause the Evidence so taken to be reduced into Writing, and shall transmit a Copy of such Evidence to the Supreme Court before which the Trial of such Person is to take place, together with a Certificate under his Hand and Seal of the Correctness of such Copy; and thereupon it shall be lawful for the said Supreme Court, and it is hereby required, to allow so much of the Evidence so taken as aforesaid as would have been admissible according to the Law and Practice of the said Supreme Court, had the said Witness or Witnesses been produced and examined at the Trial before the said Court, to be read and received as legal Evidence at such Trial: Provided also, that if

Before any such Person shall be sent to any Colony for Trial he may tender any material Evidence that he would be unable to produce on Trial, and which shall be taken down and transmitted.

In case the Laws of the

Place in which the Act was committed vary from those of the Colony the Court may give effect to them.

if it shall be made to appear at such Trial that the Laws by which the Person charged with any Criminal Act would have been tried had his Trial taken place before a Judge, Magistrate, or other Officer of Her Majesty in the Country or Place in which such Act may be alleged to have been committed, vary from or are inconsistent with the Laws in force within such Colony, in respect either of the Criminality of the Act charged, or of the Nature or Decree of the alleged Crime or Offence, or of the Punishment to be awarded for the same, such Supreme Court is hereby empowered and required to admit and give Effect to the Laws by which such Person would have been so tried as aforesaid, so far as but not further or otherwise than the same relate to the Criminality of such Act, or to the Nature or Degree of such Crime or Offence, or to the Punishment thereof: Provided also, that nothing herein contained shall be construed to alter or repeal any Law, Statute, or Usage by virtue of which any Crime or Offence committed out of Her Majesty's Dominions might, at the Time of the passing of this Act, be inquired of, tried, determined, and punished within Her Majesty's Dominions, or any Part thereof, but the same shall remain in full Force and Effect, any thing herein contained to the contrary notwithstanding.

Nothing herein to alter any Law respecting Crimes committed out of Her Majesty's Dominions.

Power to send Convicts for Execution or Imprisonment to a British Colony.

V. 'And whereas it may likewise in certain Cases be 'expedient that the Sentences passed within such Countries 'and Places as aforesaid at the Trial of Crimes and Offences 'within the same should be carried into effect within Her 'Majesty's Dominions;' be it enacted, That if any Offender shall have been sentenced to suffer Death or Imprisonment for or in respect of any Crime or Offence of which such Offender shall have been lawfully convicted before any Judge, Magistrate, or other Officer of Her Majesty within any such Country or Place as aforesaid, it shall be lawful for any Person having Authority derived from Her Majesty in that Behalf, by Warrant under his Hand and Seal, to cause such Offender to be sent to any *British* Colony which Her Majesty may by any Order or Orders in Council from Time to Time appoint in that Behalf, in order that the Sentence so passed upon such Offender may be carried into effect within the same; and the Magistrates, Gaolers, and other Officers to whom it may appertain to give effect to any Sentence passed by the Supreme Court exercising Criminal Jurisdiction within such Colony are hereby empowered and required to do all Acts and Things necessary to carry into effect the Sentence so passed upon such Offender, in the same Manner as though the same had been passed by such Supreme Court.

Power to transport Convicts.

VI. And be it enacted, That if any Offender shall have been ordered or sentenced to be transported beyond the Seas by any Judge, Magistrate, or other Officer of Her Majesty within any such Country or Place as aforesaid, or, having been adjudged to suffer Death, shall have received Her Majesty's most gracious Pardon upon Condition of Transportation beyond the Seas, it shall be lawful for any Person having Authority

derived from Her Majesty in that Behalf to cause such Offender to be sent to any Place beyond Seas to which Convicts may at any Time be lawfully transported from any Part of Her Majesty's Dominions, and, if there shall be no convenient Means of transporting such Offender without bringing him to *England*, to cause such Offender to be brought to *England*, in order to be transported, and to be imprisoned in any Place of Confinement provided under the Authority of any Law or Statute relating to the Transportation of Offenders convicted in *England*, until such Offender shall be transported or shall become entitled to his Liberty; and as soon as any such Offender shall have arrived at the Place to which he may be transported, or, if brought to *England*, shall have been there imprisoned as aforesaid, all the Provisions, Rules, Regulations, Authorities, Powers, Penalties, Matters, and Things concerning the safe Custody, Confinement, Treatment, and Transportation of any Offender convicted in *Great Britain*, shall extend and be construed to extend to such Offender as fully and effectually, to all Intents and Purposes, as if such Offender had been convicted and sentenced at any Session of Gaol Delivery holden for any County in *England*.

Limitation of Actions.

VII. And be it enacted, That if any Suit or Action shall be brought in any Court within Her Majesty's Dominions against any Person or Persons for any thing done in pursuance of any such Power or Jurisdiction of Her Majesty as aforesaid or of this Act, then and in every such Case such Action or Suit shall be commenced or prosecuted within Six Months after the Fact committed, and not afterwards, except where the Cause of Action shall have arisen out of Her Majesty's Dominions, and then within Six Months after the Plaintiff or Plaintiffs and Defendant or Defendants shall have been within the Jurisdiction of the Court in which the same may be brought; and the same and every such Action or Suit shall be brought in the County or Place where the Cause of Action shall have arisen, and not elsewhere, except where the Cause of Action shall have arisen out of Her Majesty's Dominions; and the Defendant or Defendants shall be entitled to the like Notice, and shall have the like Privilege of tendering Amends to the Plaintiff or Plaintiffs, or their Agent or Attorney, as is provided in Actions brought against any Justice of the Peace for Acts done in the Execution of his Office by an Act passed in the Twenty-fourth Year of the Reign of King *George* the Second, intituled *An Act for the rendering Justices of the Peace more safe in the Execution of their Office, and for indemnifying Constables and others acting in obedience to their Warrants;* and the Defendant or Defendants in every such Action or Suit may plead the General Issue, and give the special Matter in Evidence; and if the Matter or Thing complained of shall appear to have been done under the Authority and in execution of any such Power or Jurisdiction of Her Majesty as aforesaid or of this Act, or if any such Action or Suit shall be brought after

24 G. 2. c. 44.

after the Time limited for bringing the same, or be brought and laid in any other County or Place than the same ought to have been brought or laid in as aforesaid, then the Jury shall find for the Defendant or Defendants; and if the Plaintiff or Plaintiffs shall become nonsuit, or discontinue any Action after the Defendant or Defendants shall have appeared, or if a Verdict shall pass against the Plaintiff or Plaintiffs, or if upon Demurrer Judgment shall be taken against the Plaintiff or Plaintiffs, the Defendant or Defendants shall and may recover Treble Costs, and have the like Remedy for Recovery thereof as any Defendant or Defendants hath or have in any Cases of Law.

Repeal of Sect. 4. of 6 G. 4. c. 33. and 6 & 7 W. 4. c. 78.

VIII. And be it enacted, That from and after the First Day of *October* in the Year One thousand eight hundred and forty-four so much of an Act passed in the Sixth Year of His late Majesty King *George* the Fourth, intituled *An Act to repeal certain Acts relating to the Governor and Company of Merchants of* England *trading to the* Levant Seas, *and the Duties payable to them; and to authorize the Transfer and Disposal of the Possessions and Property of the said Governor and Company for the Public Service*, as provides, "that from and immediately after the Enrolment of any such Deed or Instrument as therein mentioned all such Rights and Duties of Jurisdiction and Authority over His Majesty's Subjects resorting to the Ports of the *Levant*, for the Purposes of Trade or otherwise, as were lawfully exercised and performed, or which the Letters Patent or Acts by the said Act recited, or any of them, authorized to be exercised and performed, by any Consul or other Officers appointed by the said Company, or which such Consuls or other Officers lawfully exercised and performed under and by virtue of any Power or Authority whatever, should, from and after the Enrolment of such Deed or Instrument as aforesaid, be and become vested in and should be exercised and performed by such Consuls and other Officers respectively as His Majesty might be pleased to appoint for the Protection of the Trade of His Majesty's Subjects in the Ports and Places respectively mentioned in the said Letters Patent and Acts, or any or either of them;" and also that from and after the passing of this Act an Act passed in the Parliament holden in the Sixth and Seventh Years of His said late Majesty King *William* the Fourth, intituled *An Act to enable His Majesty to make Regulations for the better defining and establishing the Powers and Jurisdictions of His Majesty's Consuls in the* Ottoman *Empire*, shall be and the same are hereby repealed, save as to any Matter or Thing theretofore done under the Authority of the same respectively.

Act may be amended, &c.

IX. And be it enacted, That this Act may be amended or repealed by any Act to be passed during this Session of Parliament.