

ANNO SEXTO

GULIELMI IV. REGIS.

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CAP. XVII.

An Act to make Provision for the better Administration of Justice in certain of His Majesty's *West India* Colonies. [7th *June* 1836.]

WHEREAS certain Acts or Statutes have heretofore been passed and enacted by the Legislative Councils and General Assemblies of His Majesty's Islands of *Barbadoes*, *Saint Vincent*, *Grenada*, *Tobago*, *Antigua*, *Montserrat*, *Saint Christopher*, *Nevis*, *Dominica*, and the *Virgin Islands* in the *West Indies*, for erecting therein certain Superior Courts of Justice; and by such Acts of Assembly, or some of them, the said Courts are invested with an exclusive Jurisdiction over all Persons within the said Islands respectively, and in all Causes, Civil and Criminal, arising within the same; and such Acts having been assented to, in the Name and on the Behalf of His Majesty's Royal Predecessors, by the Governors, or by the Officers administering the Governments of the said Islands, were subsequently allowed and confirmed by His Majesty's said Royal Predecessors, with the Advice of their Privy Council: And whereas it is expedient to make Provision for the better Administration of Justice throughout the several Islands aforesaid, and for that Purpose to erect Two Courts of Judicature within the same, and to commit to such Courts a superior and exclusive Civil and Criminal Jurisdiction, to be exercised by them throughout several of such Islands, constituting distinct and separate Governments, and possessing distinct and separate General Assemblies: And whereas, by reason of such Acts of Assembly as aforesaid, and by reason of the Separation of the Governments of the said several Islands, and of the General Assemblies thereof, such Courts of Judicature cannot be erected without having recourse to the Assistance and Authority of Parliament;

ment; 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 it shall and may be lawful for His Majesty, and He is hereby authorized, by Charters or Letters Patent under the Great Seal of this United Kingdom, to erect, constitute, and establish Two such Superior Courts of Judicature, having such exclusive Jurisdiction as herein-after mentioned, within His Majesty's Islands aforesaid in the *West Indies;* and which Charters or Letters Patent shall be promulgated in the several Islands aforesaid, by Proclamations to be therein respectively made in the Name and on the Behalf of His Majesty, by the respective Governors or Officers administering the Government thereof respectively.

His Majesty may erect Two Superior Courts in the West India Islands.

II. And be it further enacted by the Authority aforesaid, That for the Purposes of this present Act His Majesty's said Islands or Governments of *Barbadoes*, *Saint Vincent*, *Grenada*, *Tobago*, *Antigua*, *Montserrat*, *Saint Christopher*, *Nevis*, *Dominica*, and the *Virgin Islands* shall be divided into Two separate and distinct Judicial Districts; one of which Districts shall comprise the said Islands of *Barbadoes*, *Saint Vincent*, *Grenada*, and *Tobago*, with their several Dependencies, and the other of which Districts shall comprise the said Islands of *Antigua*, *Montserrat*, *Saint Christopher*, *Nevis*, *Dominica*, and the *Virgin Islands*, with their several Dependencies.

The Islands to be divided into Two Judicial Districts.

III. And be it further enacted, That it shall be lawful for His Majesty, by such Charters and Letters Patent as aforesaid, to erect and establish within the said first-mentioned District One Superior Court of Judicature, which shall be styled "The Supreme Court of His Majesty's Windward *Caribbee Islands*," and to erect and establish within the said last-mentioned District One other Superior Court of Judicature, which shall be styled "The Supreme Court of His Majesty's Leeward *Caribbee Islands*."

His Majesty may erect a Superior Court in each of such Districts.

IV. And be it further enacted, That each of the said Courts shall consist of and be holden in each of the said respective Islands or Governments by a Chief Justice and a Senior Puisne Justice, and by a resident Puisne Justice; which said Chief Justices and Senior Puisne Justices shall act in and for each and all of the Islands and Governments comprised in their respective Districts; but which said resident Puisne Justices shall severally act in and for the several and respective Islands or Governments within which they shall be respectively resident, and in no other Parts of the said respective Districts.

Of what Judges the Courts are to be composed.

V. And be it further enacted, That the said Chief Justices and Senior Puisne Justices shall be respectively Barristers at Law in His Majesty's Courts of Chancery, King's Bench, Common Pleas, and Exchequer at *Westminster* or *Dublin*, or Advocates in the Court of Session in *Scotland*, and shall have been admitted as such, the said Chief Justices for Seven Years at the least and the said Senior Puisne Justices for Five Years at the least previously to such their Appointments; and that the said resident Puisne Justices shall at the Time of such their Appointments be either such *English* or *Irish* Barristers or such Advocates in *Scotland* as aforesaid of not less than

Qualifications of the Judges.

than Five Years standing, or shall at the Time of such their Appointments have been admitted for at least the Term of Five Years to practise at the Bar in some or one of His Majesty's Colonial Possessions, or shall have acted as Judges of some or one of the Supreme Courts of Judicature of some or one of such Colonial Possessions; and the said Justices of the said Supreme Courts shall from Time to Time be appointed to such their Offices by His Majesty by Warrants under His Signet and Sign Manual, and shall hold such their Offices during His Majesty's Pleasure, and the ministerial and other Officers of the said Court respectively shall be appointed to and removed from their respective Offices in such Manner as His Majesty shall by such Charters or Letters Patent as aforesaid direct.

Judges how appointed, and how to hold their Offices.

VI. Provided always, and be it further enacted, That in case of the Death or Resignation of any of the said Justices, or in case of any such Sickness or Infirmity as shall render any such Justice incapable of performing the Duties of his Office, or in case of the Absence of any such Justice from the District to which the Jurisdiction of the Supreme Court to which he may belong shall extend, it shall be lawful for the Governor or the Officer administering the Government of *Barbadoes* within the District of the said Supreme Court of His Majesty's Windward *Caribbee Islands*, and for the Governor or the Officer administering the Government of *Antigua* within the District of the Supreme Court of His Majesty's Leeward *Caribbee Islands*, respectively to appoint some fit and proper Person to act in the Place and Stead of any Justice so dying, resigning, becoming incapable, or being absent, until a Successor shall be appointed by His Majesty or, until any such Justice shall return to the Execution of his Office; and in the meantime, until a Successor shall be so appointed, or until such Justice shall return as aforesaid, and shall enter upon or resume the Discharge of his Office in the said Courts respectively, the Person so to be appointed by such Governor or Officer administering the Government shall have and exercise all the Jurisdiction, Powers, and Authorities hereby or by the said Charters or Letters Patent granted to or vested in the Justices of the said Courts respectively.

Provisional Appointment of Judges.

VII. And be it further enacted, That the said Supreme Courts respectively shall be Courts of Record, and shall within the said Islands or Governments comprised within their Jurisdiction respectively, and within all and every the Islands and Territories which now are or hereafter may be dependent upon the respective Governments thereof, have cognizance of all Pleas, Civil or Criminal, and Jurisdiction in all Cases whatsoever, as fully and amply to all Intents and Purposes as His Majesty's Courts of King's Bench, Common Pleas, and Exchequer at *Westminster*, or either of them, lawfully have or exercise, and the said Courts respectively shall also at all Times be Courts of Oyer and Terminer and General Gaol Delivery in and for the said Islands and Territories and the Dependencies thereof respectively; and the said Justices so to be appointed shall have and exercise such and the same Jurisdiction and Authority in the said Islands and Territories and the Dependencies thereof respectively as the Judges of the Courts of King's Bench, Common Pleas, and Exchequer in *England*, or any of them, lawfully have and exercise, and

The Jurisdiction of the Courts.

and as shall be necessary for carrying into effect the several Jurisdictions, Powers, and Authorities committed to the said Courts respectively.

Courts to be holden Twice a Year.

VIII. And be it further enacted, That the said Supreme Court of His Majesty's Windward *Caribbee Islands* shall be holden Twice at the least in each Year in the Islands of *Barbadoes*, *Saint Vincent*, *Grenada*, and *Tobago* respectively; and that the said Supreme Court of His Majesty's Leeward *Caribbee Islands* shall be holden Twice at the least in each Year in the Islands of *Antigua*, *Montserrat*, *Saint Christopher's*, *Nevis*, *Dominica*, and *Tortola* respectively.

Two Terms to be annually held in each Island.

IX. And be it further enacted, That for the Exercise of the legal Jurisdiction vested in the said Supreme Courts Two Terms at the least thereof respectively shall be holden in each Year within each of the several Islands aforesaid, and that in all Sittings of the said Supreme Courts in Banco the Judgments, Orders, and Acts of the Majority of the said Justices shall be deemed and taken to be the Judgments, Orders, and Acts of the said Supreme Courts, and shall have Force and Validity and be executed accordingly.

Actions to be tried by a single Judge with a Jury of Twelve Men.

X. And be it further enacted, That in any Actions at Law to be brought in the said Supreme Court of His Majesty's Windward *Caribbee Islands* and of His Majesty's Leeward *Caribbee Islands* respectively, when the Parties, Plaintiff and Defendant, in any such Action shall join Issue on any Matter of Fact, the Trial of such Issue or Issues shall and may be by One or more of the Justices of the said Courts respectively, and by a Jury of Twelve Men, according to the Course of the Common Law of *England*; and that on the Trial of any Person or Persons upon any Indictment or Information before the said Courts, or either of them, such Trial shall and may be had by any One or more Justice or Justices of the said Courts, and a Jury of Twelve Men, according to the Course of the Law of *England*.

Resident Puisne Judge may do all Acts which a single Judge may do in England.

XI. And be it further enacted, That in each of the Islands or Governments aforesaid the resident Puisne Justice of the said Supreme Courts shall, within the Islands or Governments respectively in which they shall be so resident, and the Dependencies thereof, have and exercise all such Powers, Authorities, and Jurisdiction as by the Law of *England* are or is vested in or can be exercised by any single Justice of His Majesty's Courts of King's Bench or Common Pleas at *Westminster*, or by any single Baron of His Majesty's Court of Exchequer, sitting apart from the other Judges of the same Courts, and more especially all Powers, Authorities, and Jurisdiction which may be exercised by any One of the Judges of the Court of King's Bench at *Westminster* for taking and justifying Special Bail in Causes depending in the same Court; and it shall and may be lawful for such resident Puisne Justice in the Interval between any Two successive Terms of the said Supreme Courts to hold One or more Special Sittings thereof for the Purpose of entering Actions, or of confessing Judgments, or of making any such Rules or Orders of Court as may be necessary for making up the Records of the said Court, until Issue shall be thereupon joined upon any Matter of Law or of Fact, which

Issues

Issues shall nevertheless be adjudged or tried during such Terms as aforesaid, and not at any other Time; and all Rules, Orders, and Judgments so to be made or entered up at any such Special Sitting as aforesaid shall be taken to be as of the Term immediately preceding or of the Term immediately succeeding the Date thereof, as such resident Puisne Justice shall in each Case direct.

Appeal to the King in Council upon Error in Law.

XII. And be it further enacted, That for reversing any Judgment of the said Supreme Courts, or either of them, for any Error of Law, it shall be lawful for the Parties, either Plaintiff or Defendant, to appeal to His Majesty in Council upon and subject to such Terms and Conditions as His Majesty by such Charters or Letters Patent as aforesaid shall be pleased to direct.

Jurisdiction in Cases of Offences committed on the Sea.

XIII. And be it further enacted, That the said Supreme Courts of His Majesty's Windward *Caribbee Islands* and of His Majesty's Leeward *Caribbee Islands* respectively shall and may inquire of, hear, and determine all Treasons, Piracies, Robberies, Murders, Conspiracies, and other Offences, of what Nature or Kind soever, committed or that shall be committed upon the Sea, or any Haven, River, Creek, or Place where the Admiral or Admirals have Authority, Power, or Jurisdiction, according to the common Course of the Laws of the Realm of *England*, and used for Offences committed upon the Land within the Realm of *England*, and not otherwise; and that all Persons convicted of the Offences so to be inquired of, heard, and determined in the said Courts respectively shall be subject and liable to and shall suffer all such and the same Pains, Penalties, and Forfeitures as by any Law or Laws now in force Persons convicted of the same respectively would be subject and liable to in case the same were respectively inquired of, tried, heard, determined, and adjudged in *England;* any Law, Statute, or Usage to the contrary notwithstanding.

Courts to have an equitable Jurisdiction.

XIV. And be it further enacted, That the said Supreme Courts respectively shall be Courts of Equity within the Limits of the Jurisdiction thereof, and shall have Power and Authority to administer Justice, and to do, exercise, and perform all such Acts, Matters, and Things necessary for the due Execution of such equitable Jurisdiction as the Lord High Chancellor of *Great Britain* can or lawfully may do, exercise, or perform within the Realm of *England*.

Chief Justice empowered to hear Equity Causes; and, in his Absence, the Puisne Justice.

XV. Provided nevertheless, and it is hereby further enacted, That the Chief Justice for the Time being of each of the said Supreme Courts respectively shall have Power to hear and determine all Causes, Matters, and Things which shall be at any Time depending in the said Courts respectively as Courts of Equity; and that if any such Chief Justice shall, by Sickness or other unavoidable Cause, be prevented from sitting for the Purposes aforesaid, then it shall and may be lawful for the Puisne Justice, or the resident Puisne Justice of such Courts respectively to hear and determine such Causes, Matters, and Things; and that the Decrees, Orders, and Acts of the said Chief Justice, or in case of his being prevented as aforesaid, then of such Puisne Justice or resident Puisne Justice as aforesaid, shall be deemed and taken to be respectively the Decrees, Orders, and Acts of the said Supreme Court in such their equitable Jurisdiction, and shall have Force and Validity to be executed accordingly.

Equitable Jurisdiction of the resident Judge during the Non-session of the Court.

XVI. And be it further enacted, That, during the Non-session of the said Supreme Courts respectively in any of the Islands or Governments aforesaid, it shall be lawful for the resident Puisne Justice for such Island or Government to hear and determine all Applications which shall be made to the said Supreme Courts respectively as Courts of Equity for any Decree to which all the Parties, Plaintiff and Defendant, shall be consenting, or for any Interlocutory Order in any Cause there depending, which Orders shall nevertheless be subject to the Review of the full Court in such Manner, and upon, under, and subject to such Conditions, as His Majesty by such Letters Patent or Charters as aforesaid shall direct and appoint.

Courts to have Ecclesiastical Jurisdiction.

XVII. And be it further enacted, That the said Supreme Courts respectively shall have Power to grant Probates under the Seal of the said Courts of the last Wills and Testaments of all or any Inhabitants of the said Islands or Governments respectively, and of all other Persons who shall die and leave personal Effects within the same, and shall also have Power to grant Letters of Administration of the Goods, Chattels, Credits, and all other Effects whatsoever of the Persons aforesaid who shall die intestate, or who shall not have named an Executor resident within such Islands or Governments respectively, or where the Executor, being duly cited, shall not appear and sue forth such Probate, annexing the said Will to Letters of Administration when any such Persons shall have left a Will without naming any Executor who shall be then alive and resident within the Islands or Governments aforesaid, and who, being cited thereunto, shall not appear and sue forth a Probate thereof, and to sequester the Goods and Chattels, Credits and other Effects whatsoever of such Persons so dying, in Cases allowed by Law, as the same is and may now be used in the Diocese of *London*, and to demand, require, take, hear, examine, and allow, and, if Occasion require, to disallow or reject, the Accounts of such Executors or Administrators, in such Manner and Form as may be used in the said Diocese of *London*, and to do all other Things whatsoever necessary in that Behalf: Provided always, that in the Interval between any Two successive Terms of the said Supreme Courts it shall be lawful for such resident Puisne Justices as aforesaid in the Islands in which they shall be so respectively resident to do all and every the judicial Acts, and to exercise the ecclesiastical Jurisdiction aforesaid, in all Cases in which there shall be no Caveat entered or Opposition made.

Appeal to the King in Council in respect to the Equitable or Ecclesiastical Jurisdiction.

XVIII. And be it further enacted, That it shall be lawful for either of the Parties, Plaintiff or Defendant, to appeal to His Majesty in Council against any Decree, Order, or Sentence made or pronounced by either of the said Supreme Courts in the Exercise of such equitable or ecclesiastical Jurisdiction as aforesaid, in such Manner and upon and subject to such Terms and Conditions as His Majesty by such Charters or Letters Patent as aforesaid shall please to direct.

Courts of Quarter Sessions to be held.

XIX. And be it further enacted, That nothing herein contained shall extend or be construed to extend to take away or abridge any Jurisdiction, Powers, or Authorities which now is or are vested in any Courts of General Quarter Sessions holden in and for the several Islands and Governments aforesaid, and their Dependencies, or to prevent

prevent the Erection by Law in any of the said Islands and Governments of Courts of General Quarter Sessions with Power and Authority to take cognizance of all Matters and Things cognizable in all Courts of Quarter Sessions of the Peace in *England*, as far as the Circumstances and Condition of the Governments of the said Islands respectively shall require or admit: Provided nevertheless, that in all such Courts of Quarter Sessions, whether established or to be established in the said respective Islands or Governments, the said resident Puisne Justice for such Island or Government shall in virtue of such his Office preside as Chairman.

The Jurisdiction of Justices of the Peace not to be infringed.

XX. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to take away or abridge any Jurisdiction, Powers, or Authorities which now is or are, by any Law in force within the said Islands or Governments, vested in any Justices of the Peace, whether acting separately or collectively.

Jurisdiction of Courts for Recovery of small Debts.

XXI. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to take away or abridge any Jurisdiction, Powers, or Authorities which now is or are, by any Law in force in the said Islands or Governments, vested in any Court or Courts for the Recovery of Small Debts or Demands not exceeding the Sum of Twenty Pounds Sterling in Amount or Value, or to prevent the Establishment by Law therein of any such Court or Courts; provided that in all such Courts, whether established or to be established in the said respective Islands or Governments, the said resident Puisne Justice for such Island or Government shall in virtue of such his Office preside and act as Judge.

This Act not to repeal existing Laws or Usages.

XXII. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to repeal, annul, alter, or affect any Acts, Statutes, Laws, or lawful Customs or Usages in force within the said Islands or Governments, or any of them, or directly or indirectly to introduce or establish within such Islands or Governments, or any of them, any Acts, Statutes, Laws, or Customs not now in force within the same, or to alter the Rules of Practice or Methods of Proceeding in administering Justice within such Islands or any of them, save and except only so far as relates to the Courts in which and the Judges by whom Justice is administered within the said Islands and Governments; but that in all other respects the Acts, Statutes, Laws, and lawful Customs heretofore established and in force within the said Islands and Governments, and such Rules of Practice and Methods of Proceeding shall continue to be in force and to be established within the same as fully and effectually, to all Intents and Purposes, as if this present Act had not been made, any thing herein-before contained to the contrary notwithstanding.

His Majesty may place Trinidad and Saint Lucia under Jurisdiction of Supreme Courts.

XXIII. And whereas it may be expedient that the Islands of *Trinidad* and *Saint Lucia* should be comprised within the Jurisdiction of the said Supreme Courts or one of them, and that for that Purpose the Districts aforesaid or one of them should be enlarged; be it further enacted, That it shall be lawful for His Majesty, if it shall appear to His Majesty in Council expedient, but not otherwise, by any Order or Orders to be by him made with the Advice of His Privy Council, to include

include within the Jurisdiction of the said Supreme Courts, or of either of them, the said Islands of *Trinidad* or *Saint Lucia*, or either of them, and for that Purpose to enlarge the said Districts or either of them, and by any such Order or Orders in Council to make all such Regulations as to His Majesty in Council shall seem meet, for the Adaptation to the Laws in force in the said Islands respectively of the Jurisdiction of the said Supreme Courts respectively or either of them.

The Act not to take effect until Acts of Assembly shall have been passed repealing all existing Laws which could interfere with the Operation of it.

XXIV. Provided nevertheless, and be it further enacted by the Authority aforesaid, That this present Act shall not come into operation, and shall not be binding or in force upon His Majesty's Subjects or other Persons residing and being within the said Islands and Governments, and that such Letters Patent or Charters as aforesaid shall not be made or issued unless the Legislative Councils and General Assemblies of the said several Islands or Governments shall, by some Acts of Assembly to be by them for that Purpose first made and enacted, have provided that all and every the Acts, Laws, Statutes, Customs, and Usages in force within the said Islands and Governments, in so far as the same might or could in anywise obstruct or interfere with the Operation within such Islands or Governments of this present Act, and of the said Charters or Letters Patent, shall be absolutely repealed or annulled, nor unless such Repeal shall be made to take effect immediately upon the Promulgation of such Charters or Letters Patent within the said Islands or Governments, nor unless such Acts of Assembly shall be assented to in the Name and on the Behalf of His Majesty by the Governors or the Officers administering the Government of the said Islands or Governments, and shall be confirmed and allowed by His Majesty, with the Advice of His Privy Council.

His Majesty to declare by Order in Council that the before-mentioned Condition has been complied with.

XXV. And for the Prevention of all Doubt whether the Conditions have or have not been complied with, and whether this Act hath or hath not come into operation; be it further enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, by an Order to be by Him made with the Advice of His Privy Council, to declare that the before-mentioned Conditions have been complied with by the several Legislative Councils and General Assemblies of the said Islands or Governments; and when and so soon as any such Order in Council shall be published in the *London Gazette*, and such Letters Patent or Charters as aforesaid shall in manner herein-before mentioned have been promulgated within the said Islands and Governments, and not before, this present Act, and every Clause, Matter, and Thing herein contained, shall come and be deemed and taken to have come into operation within the said Islands or Governments, and be binding upon all His Majesty's Subjects and other Persons residing and being within the same: Provided always, that such Order in Council shall be laid before both Houses of Parliament within Six Weeks from its Date, if Parliament shall be then in Session, and if not, then within Six Weeks from the Commencement of the then next ensuing Session of Parliament.

Order in Council to be laid before Parliament.

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