

Harbours, settling of Markets, and encouraging Wharfs in this Island; and to prevent Abuses in the Fishery about the same; and for amending the said Act.

Dated 28th February, 1798.

No. 527. *An Act for settling and regulating the Trial of criminal Slaves by Jury.*

PREAMBLE.

Act.
On Complaint charging Slave with Crime or Felony, Justice to issue Warrant, for apprehending Slave, and summon Evidence for Examination; and commit Slave, if apparently guilty.

Magistrate first applied to, when a Clergyman, to give Notice, in 24 Hours from Commitment, of Result of Examination to next Justice.

WHEREAS it has been found by Experience, That the Laws now in force for the Trial of criminal Slaves, are attended with many and great Inconveniencies, from there not being a Jury to determine the Fact, whether such Slaves are guilty, but that the whole Matter of Fact, as well as of Law, is to be determined by the Magistrates, presiding at the Trial of such criminal Slaves: To remedy such Inconveniencies; We, therefore, Your Majesty's most loyal and obedient Subjects, the Commander-in-Chief of Your Majesty's *Leeward Caribbee Islands in America*, and the Council and Assembly of this Your Majesty's Island *Antigua*, humbly pray Your Most Excellent Majesty, that it may be enacted and ordained; and be it, and it is hereby enacted and ordained by the Authority aforesaid, That upon any Complaint made to any Justice of the Peace within this Island, of any heinous or grievous Crime, or felonious Act or Acts, committed by any Slave or Slaves, the said Justice shall issue his Warrant for apprehending the Offender or Offenders; and shall summon all and every Person, and Persons, that can give Evidence thereof, to come before him; and if, upon Examination, it appears probable that the Slave or Slaves is or are guilty, the said Justice shall commit him, her, or them, to the Common-jail of this Island.

II. And whereas it is very unusual for any Person in Holy Orders, to sit on the Trial of any Person for his Life; be it also enacted and ordained by the Authority aforesaid, that whenever it shall happen, that the Magistrate first applied to is a Clergyman; then, and in such Case, the said Magistrate shall, within twenty-four Hours after such Commitment, give Notice, in general, of what has appeared before him, upon Examination of the Parties concerned, to any *Justice of the Peace next to him*; who shall, within ten Days after such Notice as aforesaid, certify to some other Justice (of the

Quorum,

38th GEO. III.

No. 527.

A. D. 1798.

Quorum, if he be not of the Quorum himself) the Cause of such Commitment, and require such Justice,—by virtue of this Act; and such Justice is, upon such Certification, hereby required,—to associate himself with such Justice so certifying; and the said two last mentioned Justices are, hereby empowered and required, to try the said Offender or Offenders, within ten Days after the said Certification,—at the Court-house in the Town of *Saint John*, in this Island; and for that Purpose, by Warrant under their Hands and Seals, to cause the said Offender or Offenders, and all necessary Evidence, to come before them the said Justices: Provided always, if the Justice of the Peace, applied to as in the first Clause, shall not be in Holy Orders; then, the Certification to be by him made, shall be within ten Days after such Commitment as aforesaid.

III. And be it also enacted and ordained by the Authority aforesaid, That the said last mentioned Justices, shall issue a Warrant under their Hands and Seals, directed to the Provost Marshal of the said Island, or his lawful Deputy, authorizing and requiring the said Provost Marshal, or his said Deputy, to summon twelve reputable Inhabitants (being Whites) of the said Island, to meet them the said Justices at the said Court-house in the said Town of *Saint John*, at such time, within the said last mentioned ten Days, as they the said Justices shall think proper:—Provided always, That twelve Hours' Notice be given to the said Inhabitants so to be summoned.

IV. And be it enacted and ordained by the Authority aforesaid, That the said two last mentioned Justices, and six of the said Inhabitants so summoned, shall be, and are hereby constituted and declared to be, a Court and Jury, with full Power and Authority to hear, and determine-upon all Evidences, Proofs, and Testimonies, at such Trial so to be had as aforesaid; the Testimony of one Slave against another being always admitted.

V. And be it also enacted and ordained by the Authority aforesaid, That the Jury to be named and impannelled for the Trial of such Offender or Offenders, shall be balloted-for and determined-upon, in the same manner as Juries, in the Court of *Common Pleas*, and *King's Bench and Grand Sessions*, are named and determined-upon, by Direction of the sixty-first Clause of the Act of Courts of this Island, now in force.

VI. And be it enacted and ordained by the Authority aforesaid, That immediately after the said Jury shall be impannelled, the following Oath shall be administered to all and each of them.

VOL. II.

Q q

YOU

Latter to certify, in ten Days, Cause of Commitment to another Justice. These two, (one must be of the Quorum,) in ten Day's after, to try Offender.

Proviso.

Said two associated Justices to issue Warrant to Marshal, for Summons of twelve White Inhabitants.

Twelve Hours' Notice.

Said two associated Justices, and six of Inhabitants summoned; to be Court and Jury for trying Slave.

Jury to be balloted for as Juries under No. 485, S. 61.

OATH of
Juryman.

Y*OU shall, to the best of your Judgment and Knowledge, impartially, try the Prisoner [or Prisoners] now before you; and true Verdict give according to the Evidence.*

SO HELP YOU GOD.

VII. And be it enacted and ordained by the Authority aforesaid, That to all Evidences examined upon any such Trial, if Whites or Free People of Colour, the following Oath shall be administered.

OATH of
White or Free
Witness.

Y*OU shall true and perfect Answer make to all such Questions as shall be put to you, touching the Matter, now before the Court, respecting the Prisoner at the Bar; you shall speak the Truth, the whole Truth, and nothing but the Truth.*

SO HELP YOU GOD.

If Jury—from
positive, or
strong pre-
sumptive
Proof—find
Slave guilty;
Justices, on
Trial or in
five Days
after, to pass
Sentence.

VIII. And be it enacted and ordained by the Authority aforesaid, That if,—by positive Proof, or violent and strong presumptive Proof,—they the said six Inhabitants, in their Capacity as Jurors aforesaid, shall find such Slave or Slaves guilty, of the Offence or Offences, wherewith such Slave or Slaves is or are charged; then the said last mentioned Justices shall,—either on the Day of Trial, or within five Days after,—pass Sentence of Death, or other Punishment, upon such Slave or Slaves, according to the Nature of the Offence or Offences.

If Sentence be
'Death', Jus-
tices to issue,
in twenty-four
Hours, War-
rant to Mar-
shal to cause
Execution, as
appointed—
not sooner
than four
Days.

IX. And be it enacted and ordained by the Authority aforesaid, That in case any Sentence of Death be passed upon any such Slave or Slaves; then they the said two last mentioned Justices shall, within twenty-four Hours after passing Sentence, issue a Warrant under their Hands and Seals, directed to the Provost Marshal, or his lawful Deputy, to cause Execution to be done on such Slave or Slaves, at such Time and Place as they shall appoint, not before four Days after Condemnation.

If Sentence
on Slave
found guilty,
cannot, by
Law, be
Death; Jus-
tices to inflict
corporal Pu-
nishment of
their own Au-
thority.

X. And be it enacted and ordained by the Authority aforesaid, That in case the Offence or Offences with which such Slave or Slaves is or are charged, and of which such Slave or Slaves is or are found guilty, is or are such as, by the Law, Sentence of Death cannot be passed on such Slave or Slaves, but corporal Punishment only; then, the said two last mentioned Justices may, and they are hereby empowered, authorized, and required, by Warrant under their Hands and Seals, to cause to be inflicted such corporal Punishment,

on

38th GEO. III.

No. 527.

A. D. 1798.

on such Slave or Slaves, as they shall think proper, and in such Place, and at such Time, as they shall think most advisable.

XI. And be it enacted and ordained by the Authority aforesaid, That the said two last mentioned Justices shall, and they are hereby required to give Notice, of the said Sentence of Death so passed, to the Person in Chief Command in this Island, for the time being, within thirty-six Hours after passing such Sentence as aforesaid, on Pain of forfeiting twenty Pounds, Gold and Silver current Money of this Island, to be recovered, by Action of Debt, in any Court of Record in this Island; one half to the Informer, who shall sue for the same; and the other half to be paid into the Public Treasury of this Island.

Justices passing Sentence of Death as in S. 9. to apprise resident Chief-Commander, of such Proceeding, in thirty-six Hours after; under Penalty of 20*l*.

XII. And be it enacted and ordained by the Authority aforesaid, That the said Jury of six Inhabitants, shall enquire into the Damages sustained, by the Offence or Offences committed by such Slave or Slaves; and after the same shall be ascertained, such Slave or Slaves shall be delivered to his, her, or their Owner or Owners, provided he, she, or they, shall pay such Damages to the Party injured; but if such Owner or Owners refuse to pay the Amount of such Damage, it shall and may be lawful for the two last mentioned Justices and six Inhabitants, and they are hereby required, to adjudge such Slave or Slaves to be the Property of the Party injured, and his, her, or their Heirs and Assigns for ever: Provided always, that the said Recompense shall be given in Evidence, upon any Action that may be brought for the same Matter, and shall be held a sufficient Bar thereto, in any Court of Record in this Island.

Jury to assess Damages, sustained from Offence of Slave.

If Owner refuse to pay, Slave to be adjudged to Party injured.

Such Recompense, Bar to Action.

XIII. And that the Magistrates, and Inhabitants, of this Island, may not refuse or neglect, upon Application made, to sit, hear, and determine Cases of Slaves, as by this Act they are directed to do; be it therefore enacted by the Authority aforesaid, That any Justice, upon Application made as herein-before directed,—or any Inhabitant being a White, after he shall be duly summoned,—so making default; for such Refusal or Neglect, shall, severally, forfeit twenty Pounds, current Money of this Island; to be recovered by Action of Debt, in any Court or Courts of Record in this Island: and one half of such Penalty shall be paid to any Informer, who shall sue for the same; and the other half to the use of His Majesty, His Heirs, and Successors; to be applied to the Support of the Government of this Island, and the Public Charges thereof.

Magistrate refusing to sit—Juror, to attend—to hear and determine Cases of Slaves according to Act; to forfeit, each, 20*l*.; recoverable by Action; half to Informer; half to Public Use.

Q q 2

XIV.

Marshal to attend Trial; under Penalty of 20 $\frac{1}{2}$.

XIV. And be it enacted and ordained by the Authority aforesaid, That the said Provost Marshal, or his lawful Deputy, shall attend every Trial so to be had as aforesaid, upon Pain of forfeiting, for every Neglect, the Sum of twenty Pounds, current Money of this Island; to be recovered by Warrant, under the Hands and Seals of the said two last mentioned Justices, directed to the Coroner of this Island; and applied, as the former Penalties of this Act are directed to be applied: and the said Provost Marshal, or his lawful Deputy, shall be allowed, in his public Accounts, the Sum of three Shillings, for each Juror summoned, and thirty-three Shillings, for his own Attendance, on each Trial.

Marshal to be allowed 3s. each, for summoning Jurors; 33s. for his Attendance.

Secretary, on Notice from either Justice, to attend; administer Oaths; and minute Proceedings in Book.

To be allowed 33s. for Attendance.

To forfeit 20 $\frac{1}{2}$ for Non-attendance.

XV. And be it enacted and ordained by the Authority aforesaid, That the Public Secretary of this Island, or his lawful Deputy, shall, upon receiving Notice from one, or either of the said two last mentioned Justices, attend every Trial to be had by virtue of this Act; and shall also administer the Oaths to all Jurors and Witnesses, and make a Memorandum, of the Proceedings, in a Book to be kept by him for that Purpose: and shall be allowed thirty-three Shillings, in his Public Accounts, for each Trial: and in case the said Secretary, or his lawful Deputy, shall neglect to attend, on each such Trial, he shall forfeit the Sum of twenty Pounds, current Money, of this Island; to be recovered by Warrant, under the Hands and Seals of the said two last mentioned Justices, directed to the said Provost Marshal, or his Deputy, and applied in the same manner as the former Penalties of this Act are directed to be applied.

Slaves in Custody, to be tried under Act.

XVI. And be it also enacted and ordained by the Authority aforesaid, That any Slaves who may now be in Custody for, or charged with any criminal Offence, shall be tried in the manner herein-before directed by this Act, and in no other manner.

Dated at *Saint Christopher's*, the twenty-eighth Day of *February*, in the Year of our Lord one thousand seven hundred and ninety-eight, and of His Majesty's Reign the thirty-eighth.

JAMES ATHILL, *Speaker*.

Passed

38th GEO. III.

Nis. 527, 528.

A. D. 1798.

Passed the Assembly, this twenty-second Day of *February*, one thousand seven hundred and ninety-eight.

Passed the Council, this twenty-second Day of *February*, one thousand seven hundred and ninety-eight.

JOHN HILL,
Clerk of the Assembly.

By Command,
WILLIAM MATHEWS,
Deputy Secretary.

ROBERT (L. S.) THOMSON.

Published this fifteenth Day of *March*, one thousand seven hundred and ninety-eight.

ROBERT CLOGSTOUN, *Dep. Pro. Marshal.*

An Act declaring Military Commissions, granted by his Excellency the Chief Governor of the Leeward Islands, or any other Commander-in-Chief of the said Islands, to be legal and valid; although not included in the Establishment of Officers, made and fixed by the Militia Law of this Island. No. 528.

WHEREAS Your Majesty, by Letters Patent, under the Great Seal of *Great Britain*, bearing Date at *Westminster*, the eighteenth Day of *August*, in the Year of our Lord one thousand seven hundred and ninety-four, and in the thirty-fourth Year of Your Majesty's Reign, was graciously pleased to appoint his Excellency *Charles Leigh*, Esquire, to be Your Majesty's Captain-General and Governor-in-Chief, in and over all Your Majesty's *Leeward Caribbee* Islands in *America*; and did thereby authorize his said Excellency, to appoint all Officers Civil and Military within the said Islands: And whereas by a certain Act of this Island, intituled, *An Act to alter, revive, and amend an Act, intituled, An Act to alter and amend an Act, intituled, An Act for regulating the Militia of this Island; and for the further Regulation of the said Militia; and fixing and appointing the Times when Martial Law shall be in force in this Island; and declaring and* PREAMBLE. No. 453.