

N^o 1.—*AN ACT for repealing an Act, intituled, “ An Act for settling and regulating the Trial of Criminal Slaves by Jury,” and for establishing a more regular and solemn Judicature for the Trial of Slaves accused of Felony without benefit of Clergy, or other Capital Crimes.*

WHEREAS it is expedient that the present mode of trying Slaves accused of Felony should be abolished, and that the trial of Slaves in cases of Felony without benefit of Clergy, and other capital Crimes, should in future be assimilated, as closely as possible, to that of free Persons; May it therefore please Your Most Excellent Majesty, That it may be enacted; And be it Enacted by the Governor in Chief in and over Your Majesty's islands of Antigua, Montserrat and Barbuda, and the Council and Assembly of this Your Majesty's island of Antigua, and it is hereby enacted and ordained by the authority of the same, That an Act of this island, intituled, “ An Act for settling and regulating the Trial of criminal Slaves by Jury,” dated the twenty-eighth day of February, which was in the year of our Lord one thousand seven hundred and ninety-eight, and every clause, matter and thing therein contained, shall be and the same is and are hereby repealed.

Antigua.

And be it further enacted, that on the last Friday in the month of January, and the last Friday in the month of July in the present year, and in each and every year henceforward, there shall be held at the court-house, in the town of Saint John in the said island of Antigua, a court for hearing and determining all felonies without benefit of clergy, and other offences which, by the laws of this island, are or may be punishable with death, committed or perpetrated by slaves; which said court shall be called or styled “ The Court of King's Bench and Grand Sessions for the Trial of criminal Slaves,” and shall have and is hereby invested with the same, and as full power to hear, judge, determine and execute, in all felonies without benefit of clergy, and other offences which, by the laws of this island, are or may be punishable with death, committed by slaves within this island and the islands thereto adjacent, and belonging in the said island, as the court of King's Bench in that part of Great Britain called England, as in England, and as justices of Oyer and Terminer, and General Gaol Delivery, have in England; and also shall have, and is hereby vested with the same powers to hear, try, judge, determine and execute, in all felonies without benefit of clergy, and other offences which, by the laws of this island, are or shall be punishable with death, committed by slaves, and to do all such other matters and things therein, as by any law or act of this island the court of King's Bench and Grand Sessions for Antigua, and justices of Oyer and Terminer, and General Gaol Delivery in the said island have, or are empowered to do, in regard to crimes committed by free persons; and shall adjudge and determine in all and every felonies without benefit of clergy, and other offences which, by the laws of this island, are or may be punishable by death, committed by slaves, according to the laws and statutes of Great Britain in force, or to be in force here, and the particular laws and acts of the said island of Antigua, and the general laws of the Leeward Carribee Islands.

And be it further enacted, that the said court of king's bench and grand sessions for the trial of criminal slaves, hereby established, shall be and is hereby declared to be, to all intents and purposes, a court of record; and also that no particular commission shall be necessary for holding the said court, or appointing justices thereof;

Antigua.

but the justices thereof shall be and are hereby authorized and enabled to act in all things aforesaid by virtue of this Act, without further writ, commission or authority.

And be it further enacted, that the several persons following shall be justices of the said court and no other; (that is to say), the lieutenant-general of His Majesty's island of Antigua, Montserrat and Barbuda for the time being, the lieutenant-governor of this island for the time being, all the members of His Majesty's council for this island for the time being, the speaker of the assembly of this island if he shall be one of His Majesty's justices assigned to keep the peace within this island, the justices of the court of common pleas and the barons of the exchequer of this island for the time being, and all His Majesty's justices of the peace of this island for the time being, except always that if any one of the said persons shall then happen to be commander-in-chief of the islands of Antigua, Montserrat and Barbuda, he shall not be a justice of the said court, which so acting as commander-in-chief, because in him rests the exercise of the prerogative annexed to the high executive power of pardoning or respiting criminals.

And be it further enacted, that the said court of king's bench and grand sessions for the trial of criminal slaves, hereby established, shall have power and authority to sit and adjourn respectively, from time to time, during the space of thirty days from the first time of meeting, hereby appointed for holding each court respectively, and no longer; and if by alarms or other causes the court cannot meet at the time hereby prefixed, the person in chief command on this island may appoint any other day for holding the said court, and the same shall be held accordingly, so always as there shall be fourteen days from the day of making such order unto the day thereby to be appointed for holding the said court.

And be it further enacted, that the clerk of the crown of this island for the time being, or his lawful deputy, shall be the clerk of the said court of king's bench and grand sessions for the trial of criminal slaves, hereby established; and the provost-marshal of this island for the time being, or his lawful deputy, shall be the marshal of the same court; and that the said provost-marshal or his deputy shall, at his own expense, find a crier and at least three more under officers to attend the grand and petty juries.

And be it further enacted, that summons by way of letter shall be issued by the secretary to each of the respective justices of the said court of king's bench and grand sessions for the trial of criminal slaves hereby established, requiring their attendance at the day hereby appointed for holding each court; which summons shall be timely delivered to the marshal, so that he may serve it six days at least before each day for holding the same court, and the marshal or his deputy appointed for that purpose shall serve it accordingly.

And be it further enacted, that all coroners and constables of this island are hereby required, at their peril, to attend without further notice at the said courts respectively, from the beginning of the sessions to the end thereof, unless excused or sooner discharged by the court, otherwise shall be liable to fines on nonattendance, not under three pounds, nor above ten pounds current gold or silver money of the said island.

And be it further enacted, that all justices of the peace, coroners and other persons, who shall have taken any inquests, depositions, recognizances, or other papers relating to the matters cognizable by the said court hereby established, shall send the same to the clerk of the crown four days before the holding each of the said courts; and if taken within such four days, then as soon after the same were taken as conveniently may be.

And be it further enacted, that the clerk of the crown at his peril shall, ten days at least before the sitting of each court hereby established, issue out a writ or precept in general terms, in the King's name, which shall be tested generally to this effect: "Witness the justice of the said court hereto subscribing and sealing;" and the marshal, at his peril, shall address himself to some of the said justices upon the island, applying to them, in course, according to their degrees, beginning with the lieutenant-general first, and so downwards in order, and shall get the said writ or precept signed by two or more of them, the tenor whereof shall be to summon a sufficient grand jury, and sufficient petty juries, of the freeholders and inhabitants of this island, to serve at the next court of king's bench and grand session for the trial of criminal slaves, to be held for this island

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on the _____ day of _____ next (or instant), in the town of Saint John, in this island, and to publish the holding of the said court.

And be it further enacted, that by virtue of the said writ the provost marshal or his deputy shall summon thirty persons of the best note, not being members of the court, freeholders and inhabitants of this island, to serve as grand jurors; and at least forty-eight sufficient freeholders and inhabitants of this island, to serve as petty jurors at the said courts respectively; and to prevent disputes about good service of notice to such jurors, the summons shall by a short writing, signed by the marshal or his deputy, to this effect: "Mr. *A. B.* appear on the _____ day of _____ next or instant, and serve as a grand juror or petty juror (distinguishing which in the summons) at the court of king's bench and grand session for the trial of criminal slaves," which summons shall be served personally, or by leaving it at the usual place of abode of the person summoned at least four days before, exclusive of the day of attendance; and the marshal or his deputy shall publish further the holding each of the said courts, in the contract paper of this island, five days before the holding each court, if there shall be any contract paper, and if there shall be no contract paper then in any other paper published in this island; and if there shall be no paper published, then by fixing up a publication in writing, in a large hand, at the north and south gates of the court-house in Saint John's, at least five days before the day of holding each of the said courts; and so when held on an appointment by the governor, or person in chief command, in cases of alarms and interruptions as aforesaid.

And be it further enacted, that any person who shall be concerned to defend or prosecute in the said court hereby established, shall and may have subpoenas for witnesses to attend under penalty of fifty pounds current gold and silver money of this island for each witness not attending, to be served, in case the evidence of a slave be required, upon the owner or proprietor of such slave, or the representative of such owner or proprietor, and the penalty to be paid in default by such owner or proprietor, or representative as the case may be, and to be recovered in manner and for the same uses as is by law established in case of subpoenas for witnesses to attend in the court of common pleas of this island, which subpoenas shall be signed and sealed only by the secretary of this island, or his lawful deputy for the time being, and shall be tested in the King's name; but nothing herein to hinder the binding over any witness to appear at the said court hereby established by recognizances: and in case a recognizance should be required for the appearance of any slave, the owner or proprietor, or representative of the owner or proprietor of such slave, shall enter into the recognizance required, or in default thereof, the said slave shall be committed.

And be it further enacted, that the fines of jurors not appearing at the call of their names at the courts hereby established, or departing without leave of the said courts, shall be as follow: viz. a grand juror, for every default ten pounds current gold or silver money of this island; and every petty juror, five pounds like money for each default.

And be it further enacted, that all fines imposed or recognizances estreated, under or by virtue of this act, shall be recovered in the mode and manner pointed out by the act, constituting the court of king's bench and grand sessions for this Island.

And be it further enacted, that on the application of counsel on the part of the master or proprietor, or the representative of the master or proprietor, of any slave or slaves confined in the common gaol on any charge or charges of felony without benefit of clergy, or other offences which by the laws of this island are or may be punishable with death, to any two or more justices of the court of common pleas, when neither the court of king's bench and grand sessions, nor court of common pleas is actually sitting, it shall and may be lawful for the said two or more justices, at any time of the year, to issue a writ of habeas corpus out of court, and make the said writ returnable before them either out of court, or in court, and to hear and determine therein; and in all cases to remand or discharge, with or without bail, as to them shall seem fit, as effectually as the said court of king's bench and grand sessions, or court of common pleas, could or might if sitting determine in the case of a free person.

And be it further enacted, that nothing herein contained shall be construed to prevent the governor or commander-in-chief of the islands of Antigua, Montserrat, and Barbuda for the time being, from issuing at any time or times a commission or

Antigua.

commissions of oyer and terminer and gaol delivery, for the trial of slaves accused of felonies without benefit of clergy, or other offences which by the laws of this island are or may be punishable with death; but all and every courts and court which shall or may be at any time hereafter convened and held under or by virtue of any such special commission, shall be and the same are and is hereby invested with as full and ample power and authority, in every respect, as the court of king's bench and grand sessions for the trial of criminal slaves hereby established.

And be it further enacted, that in all cases of the trial of slaves for felony without benefit of clergy, or other offences which by the laws of this island are or may be punishable with death, the prosecution shall be carried on at the suit of the Crown, by the attorney or solicitor-general, or by both those officers if thought necessary, and in their absence by the senior king's counsel, and counsel shall be assigned by the court to the slave so charged with felony, upon his or her application, or upon the application of his or her proprietor on his or her behalf, or of the representative of such proprietor.

And be it further enacted, that in all trials for felonies, or other offences cognizable by the said court, the testimony of slaves for and against one and another shall be valid and admissible in law; and such testimony shall be taken (as has always heretofore been usual and customary in this island) without oath.

And be it further enacted, that all slaves charged with felonies without benefit of clergy, or other offences which by the laws of this island are or may be punishable with death, in the said court of king's bench and grand sessions for the trial of criminal slaves hereby established, shall be tried upon a regular indictment, and with every other legal formality which is essential to the trial of free persons under a similar charge; and the said court of king's bench and grand sessions for the trial of criminal slaves shall be considered as auxiliary to the court of king's bench and grand sessions for Antigua, and shall in every respect (except as is hereinbefore specially directed, provided and specified,) from time to time and at all times hereafter be summoned, convened, assembled, composed, constituted, held and adjourned, and in all its process and proceedings as to the summoning and forming of juries, and otherwise, wholly and entirely guided and governed, under, by and according to the same forms, regulations, rules of practice, provisions, conditions, reservations and restrictions, as are prescribed, provided, reserved and established, for settling and regulating the constitution, process, practice and proceedings of the said court of king's bench and grand sessions for Antigua, in and by an act of this island, intituled, "An Act for establishing courts of common pleas, error, king's bench, and grand sessions, and for the better regulating and settling due methods for the administration of justice."

And be it further enacted, that whenever sentence of death shall be passed upon any slave or slaves by the said court of king's bench and grand sessions for the trial of criminal slaves hereby established, the president of the said court shall, within twenty-four hours after the sitting of the said court, issue a warrant under his hand and seal directed to the provost-marshal of this island, or his lawful deputy, to cause such slave or slaves to be executed according to law, at such time and place as the said president of the court shall appoint, but not sooner than four days after judgment.

And be it further enacted, that in case any slave or slaves indicted for felony without benefit of clergy, or any other offence which by the laws of this island is or may be punishable with death, shall on trial be found guilty by the jury of any minor offence, to which the punishment of death is not by law annexed, it shall and may be lawful for the said court of king's bench and grand sessions for the trial of criminal slaves hereby established, and it is hereby authorized and empowered by warrant under the hand and seal of the president of the said court, to cause to be inflicted on such slave or slaves so convicted of any minor offence, such corporal punishment, and in such place, at such time, or for such period, as it shall in its discretion think fit.

And be it further enacted, that whenever sentence of death shall be passed upon any slave or slaves by the said court of king's bench and grand sessions for the trial of criminal slaves hereby established, the president of the said court shall within the space of thirty-six hours after passing such sentence, give due notice of the same to the governor or person in chief command in this island for the time being.

And be it further enacted, that every or any slave who may be now in custody in the common goal of this island, under a charge of felony without benefit of clergy

Assemblies.] TREATMENT OF SLAVES IN THE COLONIES. 9

clergy, or any other offence which by the laws of this island is punishable with death, shall be tried under and by virtue of this act, and not otherwise.

Antigua.

Dated at Antigua, the 15th day of March, in the year of our Lord 1821, and of His Majesty's reign the second.

(signed) *Nicholas Nugent*, Speaker.

Passed the Assembly the 4th of January 1821.

(signed) *Nathaniel Humphrys*, Clerk of the Assembly.

Passed the Council the 8th day of March 1821.

By command, (signed) *Thomas Shirley Warner*, Dep^y Sec^y, &c.

(signed) B. D'URBAN, (L. s.)

Duly published this 17th day of March 1821.

(signed) *R. L. Nanton*, D. P. Marshal.