

advice and consent of the lords-spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That the provision made by the said act of the twenty-eighth year of the reign of his late Majesty, for continuing the several acts, made for repairing and amending turnpike roads for five years, shall be and continue in full force, and be as effectual, to all intents and purposes, as the same could, might, or ought to have been, if the said acts of the seventh and thirteenth years of his present Majesty's reign, or either of them, had not been made; any thing in those acts, or in either of them, contained to the contrary notwithstanding.

Provisions of act 28 Geo. 2. for repairing turnpike roads for five years, continued.

II. And be it further enacted, That all and every person and persons, who hath or have received, or shall hereafter receive, any tolls, or other duties, at any turnpike or toll-gate; or who hath acted, or shall hereafter act, in any other respect under the authority of, and in execution of any of the powers of any act or acts of parliament so continued, or intended to be continued, by the said recited act of the twenty-eighth year of his late Majesty, shall be, and is and are hereby indemnified for what he, she, or they, have so received or done, or for what he or they shall receive, or do by virtue thereof.

Persons who have or shall receive tolls at any turnpike by the aforesaid act indemnified, &c.

C A P. XXXVII.

An act for allowing further time for inrolment of deeds and wills made by papists, and for relief of protestant purchasers.

Preamble. Act 3 Geo. 1. Deeds and wills of papists, &c. since Sept. 29, 1717, to be good in law, if inrolled before Jan. 1, 1775. Not to extend to deeds whereof advantage shall be taken before March 2, 1774. Not to prejudice purchases made by protestants, &c. Nothing herein to extend to make good any grant, lease, &c. made by any papist, &c.

C A P. XXXVIII.

An act for paving, repairing, cleansing, and lighting, the streets and lanes in the city of Hereford, and suburbs thereof, and removing nuisances and annoyances therein, and for creating a fund towards the expences thereof, by inclosing divers waste grounds within the liberties of the said city, and for the better application of charity-money for setting the poor people of the said city to work, and to enable bodies corporate to alienate their houses and lands within the said city.

C A P. XXXIX.

An act for the impartial administration of justice in the cases of persons questioned for any acts done by them in the execution of the law, or for the suppression of riots and tumults, in the province of the Massachusetts Bay, in New England.

WHEREAS in his Majesty's province of Massachusetts Bay, in New England, an attempt hath lately been made to throw off the authority of the parliament of Great Britain over the said province, and an actual and avowed resistance, by open force, to the execution of certain acts of parliament, hath been suffered to take place, uncontrouled and unpunished, in defiance of his Majesty's authority, and to the utter subversion of all lawful government: and whereas, in the present disordered state of the said province, it is of the utmost

Preamble.

How indictments against magistrates, and others, for capital offences, in the execution of their duty, may be tried.

utmost importance to the general welfare thereof, and to the re-establishment of lawful authority throughout the same, that neither the magistrates acting in support of the laws, nor any of his Majesty's subjects aiding and assisting them therein, or in the suppression of riots and tumults, raised in opposition to the execution of the laws and statutes of this realm, should be discouraged from the proper discharge of their duty, by an apprehension, that in case of their being questioned for any acts done therein, they may be liable to be brought to trial for the same before persons who do not acknowledge the validity of the laws, in the execution thereof, or the authority of the magistrate in the support of whom, such acts had been done: in order therefore to remove every such discouragement from the minds of his Majesty's subjects, and to induce them, upon all proper occasions, to exert themselves in support of the public peace of the province, and of the authority of the King and parliament of Great Britain over the same; be it 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 if any inquisition or indictment shall be found, or if any appeal shall be sued or preferred against any person, for murder, or other capital offence, in the province of the *Mafsachusetts Bay*, and it shall appear, by information given upon oath to the governor, or, in his absence, to the lieutenant-governor of the said province, that the fact was committed by the person against whom such inquisition or indictment shall be found, or against whom such appeal shall be sued or preferred, as aforesaid, either in the execution of his duty as a magistrate, for the suppression of riots, or in the support of the laws of revenue, or in acting in his duty as an officer of revenue, or in acting under the direction and order of any magistrate, for the suppression of riots, or for the carrying into effect the laws of revenue, or in aiding and assisting in any of the cases aforesaid; and if it shall also appear, to the satisfaction of the said governor, or lieutenant-governor respectively, that an indifferent trial cannot be had within the said province, in that case, it shall and may be lawful for the governor, or lieutenant-governor, to direct, with the advice and consent of the council, that the inquisition, indictment, or appeal, shall be tried in some other of his Majesty's colonies, or in *Great Britain*; and for that purpose, to order the person against whom such inquisition or indictment shall be found, or against whom such appeal shall be sued or preferred, as aforesaid, to be sent, under sufficient custody, to the place appointed for his trial, or to admit such person to bail, taking a recognizance, (which the said governor, or, in his absence, the lieutenant-governor, is hereby authorized to take), from such person, with sufficient sureries, to be approved of by the said governor, or, in his absence, the lieutenant-governor, in such sums of money as the said governor, or, in his absence, the lieutenant-governor, shall deem reasonable, for the personal appearance of such person, if the trial shall be appointed to be had in any other colony, before the governor,

governor, or lieutenant-governor, or commander in chief of such colony; and if the trial shall be appointed to be had in *Great Britain*, then before his Majesty's court of *King's Bench*, at a time to be mentioned in such recognizances; and the governor, or lieutenant-governor, or commander in chief of the colony where such trial shall be appointed to be had, or court of *King's Bench*, where the trial is appointed to be had in *Great Britain*, upon the appearance of such person, according to such recognizance, or in custody, shall either commit such person, or admit him to bail, until such trial; and which the said governor, or lieutenant-governor, or commander in chief, and court of *King's Bench*, are hereby authorised and empowered to do.

II. And, to prevent a failure of justice, from the want of evidence on the trial of any such inquisition, indictment or appeal, be it further enacted, That the governor, or, in his absence, the lieutenant-governor, shall, and he is hereby authorised and required, to bind in recognizances to his Majesty all such witnesses as the prosecutor or person against whom such inquisition or indictment shall be found, or appeal sued or preferred, shall desire to attend the trial of the said inquisition, indictment, or appeal, for their personal appearance, at the time and place of such trial, to give evidence: and the said governor, or in his absence, the lieutenant-governor, shall thereupon appoint a reasonable sum to be allowed for the expences of every such witness, and shall thereupon give to each witness a certificate, in writing, under his hand and seal, that such witness has entered into a recognizance to give evidence, and specifying the sum allowed for his expences; and the collector and collectors of the customs, or one of them, within the said province, upon the delivery of such certificate, are, and is hereby authorised and required, forthwith to pay to such witness the sum specified therein for his expences.

Governor to bind in recognizances to his Majesty all witnesses the prosecutor shall desire to attend the trial, &c.

And shall appoint a reasonable sum for the expences of every witness, which the collectors of the customs are to pay.

III. And be it further enacted by the authority aforesaid, That all prosecutors and witnesses, who shall be under recognizances to appear in any of his Majesty's colonies in *America*, or in *Great Britain*, in pursuance of this act, shall be free from all arrests and restraints, in any action or suit to be commenced against them during their going to such colony, or coming to *Great Britain*, and their necessary stay and abiding there, on occasion of such prosecution, and returning again to the said province of the *Massachusetts Bay*.

Witnesses to be free from all arrests during their journey to any colony, &c.

IV. And be it further enacted by the authority aforesaid, That all and every his Majesty's justices of the peace, and other justices and coroners, before whom any person shall be brought, charged with murder, or other capital crime, where it shall appear by proof, on oath, to such justices or coroners, that the fact was committed by such person, either in the execution of his duty as a magistrate, for the suppression of riots, or in the support of the laws of revenue, or in acting in his duty as an officer of revenue, or in acting under the direction and order of any magistrate, for the suppression of riots, or for the carrying into effect the laws of revenue, or in aiding and assisting in any

Persons brought before justices, &c. accused, of any capital crime in the execution of their duty, to be admitted to bail.

of the cases aforesaid, are hereby authorised and required to admit every such person so brought before him or them, as aforesaid, to bail; any law, custom, or usage, to the contrary thereof in any-wise notwithstanding.

Where persons are found to have committed crimes, and desire to be tried in another colony, justices to postpone their trial, &c.

V. And be it further enacted by the authority aforesaid, That where it shall be made appear to the judges or justices of any court, within the said province of *Massachusetts Bay*, by any person, against whom any inquisition or indictment shall be found, or appeal sued or preferred for murder, or other capital crime, that the fact was committed by such person, either in the execution of his duty as a magistrate, for the suppression of riots, or in the support of the laws of revenue, or in acting in his duty as an officer of revenue, or in acting under the direction and order of any magistrate, for the suppression of riots, or for the carrying into effect the laws of revenue, or in aiding and assisting in any of the cases aforesaid, and that he intends to make application to the governor, or lieutenant-governor of the said province, that such inquisition, indictment, or appeal, may be tried in some other of his Majesty's colonies, or in *Great Britain*, the said judges or justices are hereby authorised and required to adjourn or postpone the trial of such inquisition, indictment, or appeal, for a reasonable time, and admit the person to bail, in order that he may make application to the governor, or lieutenant-governor, for the purpose aforesaid.

If the governor directs the trial to be in any other colony, he is to transmit the inquisition, &c. to the commander in chief, who is immediately to deliver such inquisition, &c. to the chief justice, &c. who shall be empowered to proceed upon such inquisition, &c.
If the governor directs the trial to be in *Great Britain*, he is to transmit the indictment, &c. to one of the secretaries of state, &c.

VI. And be it further enacted, That the governor, or, in his absence, the lieutenant-governor, if he shall direct the trial to be had in any other of his Majesty's colonies, shall transmit the inquisition, indictment, or appeal, together with recognizances of the witnesses, and other recognizances, under the seal of the province, to the governor, or lieutenant-governor, or commander in chief of such other colony, who shall immediately issue a commission of *Oyer and Terminer*, and deliver, or cause to be delivered, the said inquisition, indictment, or appeal, with the said recognizances to the chief justice, and such other persons as have usually been commissioners of *Oyer and Terminer*, justices of assize, or general gaol delivery there; who shall have power to proceed upon the said inquisition, indictment, or appeal, as if the same had been returned, found, or preferred before them; and the trial shall thereupon proceed in like manner, to all intents and purposes, as if the offence had been committed in such place: and in case the governor, or, in his absence, the lieutenant-governor, shall direct the trial to be had in *Great Britain*, he shall then transmit the inquisition, indictment, or appeal, together with the recognizances, of the witnesses, and other recognizances, under the seal of the province, to one of Majesty's principal secretaries of state, who shall deliver, or cause to be delivered, the same, to the master of the crown office, to be filed of record in the court of *King's Bench*, and the inquisition, indictment, or appeal, shall be tried and proceeded upon, in the next term, or at such other time as the court shall appoint, at the bar of the court of *King's Bench*, in like manner,

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to all intents and purposes, as if the offence had been committed in the county of *Middlesex*, or in any other county of that part of *Great Britain* called *England*, where the court of *King's Bench* shall sit, or else before such commissioners, and in such county, in that part of *Great Britain* called *England*, as shall be assigned by the King's majesty's commission, in like manner and form, to all intents and purposes, as if such offence had been committed in the same county where such inquisition, indictment, or appeal, shall be so tried.

VII. And be it enacted by the authority aforesaid, That in case, on account of any error or defect in any indictment, which, in virtue or under the authority of this act, shall be transmitted to any other colony, or to *Great Britain*, the same shall be quashed, or judgement thereon arrested, or such indictment adjudged bad upon demurrer, it shall and may be lawful to prefer a new indictment or indictments against the person or persons accused in the said colony, to which such indictment, so quashed or adjudged bad, shall have been transmitted, or before the grand jury of any county in *Great Britain*, in case such former indictment shall have been transmitted to *Great Britain*, in the same manner as could be done in case the party accused should return to the place where the offence was committed; and the grand jury and petty jury of such other colony or county in *Great Britain* shall have power to find and proceed upon such indictment or indictments, in the same manner as if the offence, by such indictment or indictments charged, had been committed within the limits of the colony or county for which such juries shall respectively be impanelled to serve.

If any indictment transmitted be accounted bad, another indictment may be preferred.

Grand jury empowered to proceed on such indictment, &c.

VIII. And be it further enacted by the authority aforesaid, That this act, and every clause, provision, regulation, matter, and thing, herein contained, shall commence and take effect upon the first day of *June*, one thousand seven hundred and seventy-four; and be, and continue in force, for and during the term of three years.

Commencement and continuance of the act.

C A P. XL.

A act for divesting out of the crown the plantation and estate of *Ulysses Fitzmaurice* esquire, deceased, and for vesting the same in trustees, to be sold for payment of his debts, and for other purposes therein mentioned.

Preamble. Estates vested in trustees; but nevertheless upon trust; with power to sell the said estates. Application of monies. Saving clause in favour of *John Fitzmaurice*, an infant. How the surplus is to be divided, in case it affords a larger sum than that of 500l. to each of the distant relations. A negro woman and boy to be settled according to the instructions of the will. After payment of purchase money the estates to be free from all claims and trusts. Money arising by the sale of the premises to be deposited in the bank. Trustees not to be answerable for the acts of each other. Saving of rights to bodies politic, &c. Publick act.