

The Administration of Justice Act; May 20, 1774

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 Massachuset's Bay, in New England.

WHEREAS in his Majesty's province of Massachuset's 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 subversion of all lawful government whereas, in the present disordered state of the said province, it is of the 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 provinces, 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 Massachuset's 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 authorised 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, 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 expenses 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.

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 art, 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 Massachusset's Bay.

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

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 Massachusset's 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.

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 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.

VIII. And be it further enacted by the authority aforesaid, That this act, and every clause, provision, regulation, 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.