ANNO SEXTO & SEPTIMO

GULIELMI IV. REGIS.

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C A P. CV.

An Act for the better Administration of Justice in certain Boroughs. [20th *August* 1836.]

WHEREAS by reason of certain Defects in an Act passed in the last Session of Parliament, intituled *An Act to provide for the Regulation of Municipal Corporations in* England *and* Wales, the Administration of Civil and Criminal Justice is injuriously hindered and delayed in certain Boroughs named in the Schedules (A.) and (B.) to the said Act annexed: 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 the Justices of the Peace of any County, Riding, Parts, or Division of a County shall have the same Powers of contracting with the Council of any Borough, Town, or City named in the said Schedules in which it shall have been made to appear to the Satisfaction of One of His Majesty's Principal Secretaries of State that there is a Gaol or House of Correction fit for the Confinement of Prisoners, for the Conveyance to and Support and Maintenance in such Gaol or House of Correction of Prisoners committed thereto by any Justice or Justices of such County, Ridings, Parts, or Division of a County, which the Council of any other Borough have with respect to Prisoners committed to such Gaol or House of Correction from such last-mentioned Borough; and all the Provisions of an Act made in the Fifth Year of His late Majesty,

5 & 6 W. 4. c. 76.

County Justices may contract with Council of a Borough in which there is a sufficient Gaol for the Committal of County Prisoners thereto.

5 G. 4. c. 85. intituled *An Act for amending an Act of the last Session of Parliament relating to the building, repairing, and enlarging of certain Gaols and Houses of Correction, and for procuring Information as to the State of all other Gaols and Houses of Correction in* England *and* Wales, shall extend, or as nearly as may be, to all such Contracts; and in case His Majesty shall have granted to the Borough, Town, or City in which such Gaol or House of Correction shall be situated a separate Court of Quarter Sessions of the Peace, such Offenders may be tried and sentenced by such Court for all Offences of which the Court has Cognizance, and punished accordingly, and all the Provisions of the last-recited Act made in the Fifth Year of His late Majesty shall extend as nearly as may be to the Trial and Punishment of such Offenders, and to all Acts necessary for such Trial or consequent thereon.

If there is a separate Court of Quarter Sessions in the Borough such Offenders may be tried there.

Power to try Prisoners at Borough Sessions, although committed for Trial under Contract to a County Prison more than Two Miles from the Borough.

II. And whereas it is expedient to enlarge the Powers given to the Councils of the Boroughs named in the said Act for the Regulation of Municipal Corporations, in which a separate Court of Quarter Sessions of the Peace shall be holden, of contracting with the Justices of the Peace having Authority or Jurisdiction in and over any Gaol or House of Correction of the County, Riding, or Division wherein such Borough is situated or whereunto it is adjacent, for the Conveyance, Support, and Maintenance in such last-mentioned Gaol or House of Correction of Prisoners committed thereto from such Borough; be it enacted, That it shall be lawful to try any such Prisoner at the Borough Court of Quarter Sessions of the Peace, and for the proper Officer of such Borough to direct the Removal of such Prisoner for Trial, and to do all other Acts necessary for such Trial or consequent thereon, notwithstanding that the Gaol or House of Correction so receiving under Contract a Prisoner committed for Trial may be situate more than Two Miles from the usual Place of Trial of such Borough.

Oaths required to be taken by Recorder, &c. may be taken before the Mayor or Two Aldermen or Councillors.

III. And whereas it is by the said recited Act enacted, that no Recorder or Person assigned to keep the Peace within any such Borough shall be capable of acting as Recorder or Justice of the Peace within such Borough until he shall have taken the Oaths provided to be taken by Justices of the Peace, except the Oath as to Qualification by Estate; be it enacted, That all Oaths so required to be taken by any such Recorder or Person assigned to keep the Peace may be taken before the Mayor or any Two Aldermen or Councillors of the said Borough, without suing out or obtaining any special Dedimus or other Commission or Authority for administering such Oaths.

Mayor to hold over until Acceptance of Office by his Successor.

IV. And whereas by the said Act it is provided that the Mayor of every Borough named in the said Schedules (A.) and (B.) shall continue in his Office for One whole Year; be it enacted, That the Mayor of every such Borough shall continue in Office for One whole Year, and until his Successor shall have accepted the Office of Mayor, and shall have made and subscribed the Declaration required in that Behalf.

V. And

Sheriff to be elected on Ninth November instead of First November.

V. And be it enacted, That so much of the said Act as provides for the Appointment of any Sheriff on the First Day of *November* in this or any following Year is hereby repealed; and that every such Appointment of Sheriff shall be on the Ninth Day of *November*, at the quarterly Meeting of the Council, and immediately after the Election of Mayor, and in all other respects according to the Provisions of the said Act; and every Sheriff appointed under the Provisions of the said Act or of this Act shall hold his Office until the Appointment of his Successor.

Coroner may appoint a Deputy in case of Illness or unavoidable Absence.

VI. And be it enacted, That in case of Illness or unavoidable Absence the Coroner for the Time being of any Borough, Town, or City named in the said Act shall be empowered and he is hereby required, by Writing under his Hand and Seal, to appoint a fit Person, being a Barrister at Law or an Attorney of one of His Majesty's Courts at *Westminster*, and not being an Alderman or Councillor of such Borough, Town, or City, to act for him as Deputy Coroner during the Illness or unavoidable Absence of such Coroner, but no longer or otherwise: Provided always, that the Mayor or Two Justices of such Borough, Town, or City shall on each Occasion certify under their Hands and Seals the Necessity for the Appointment of such Deputy Coroner; and such Certificate shall state the Cause of Absence of the Coroner, and shall be openly read to every Inquest Jury summoned by such Deputy Coroner; and the Particulars of every Inquest holden before any Deputy Coroner shall be included in the Return to be made by the Coroner to the Secretary of State, as provided by the said Act. Proviso.

Extension of Jurisdiction of Courts of Requests.

VII. And be it enacted, That in every Case in which before the passing of the said Act a Court of Requests or of Conscience for the Recovery of Small Debts was established in any Borough, Town, City, or County of a Town or City, the Boundary whereof shall have been enlarged by the said Act, the Jurisdiction of such Court shall be extended to such enlarged Boundary: Provided nevertheless, that nothing herein contained shall extend to give such Court Cognizance of any Suit which before the passing of this Act could not be brought therein, and could be brought in some other Court of Conscience or Requests.

Powers of Local Acts heretofore exercised by Justices in Quarter Sessions, and not within the Powers of the Recorder, vested in the Council.

VIII. And be it enacted, That every thing provided under any Local Act of Parliament to be done exclusively by any particular or limited Number, Class, or Description of the Members of any Body Corporate named in the Schedules (A.) and (B.) annexed to the said Act for regulating Corporations, the Continuance of which is not inconsistent with the Provisions of the said Act, and also every thing provided in any such Local Acts to be done by the Justices, or by some particular Class or Description of Members of such Body Corporate, being Justices, at some Court of General or Quarter Sessions assembled, and which does not relate to the Business of a Court of Criminal or Civil Judicature, shall and may be done by the Council at some quarterly Meeting of the Council, or by some Committee of the Council, or any Three or more of such Committee to be appointed at a quarterly Meeting of the Council: Provided also, that every thing

thing herein authorized to be done at a quarterly Meeting of the Council may be done at a Meeting of the Council to be specially summoned for that Purpose as soon as may be after the passing of this Act: Provided also, that no Recorder by virtue of his Office shall have Power to allow, apportion, make, or levy, or do any Act whatsoever with relation to the Allowance, Apportionment, making, or levying of any Rate whatsoever.

Provision for holding Courts of Record.

IX. And whereas Doubts have arisen as to the Provisions of the said Act for regulating Corporations respecting Judges in Borough Courts of Record for the Trial of Civil Actions not regulated by the Provisions of any Local Act of Parliament, or in which at the Time of passing the said Act a Barrister of Five Years Standing did not act as Judge or Assessor; be it therefore enacted and declared, That from and after the passing of this Act the Recorder, and in the Absence of the Recorder such Person, being a Barrister of not less than Five Years Standing, as shall be appointed by the Recorder under his Hand and Seal to hold the said Court, shall be the Judge of such Court and shall hold the said Court at such Times as the said Recorder in his Discretion may think fit, or as His Majesty shall think fit to direct; and every Recorder or Person so appointed to hold such Court shall be entitled to have such Salary paid to him out of the Borough Fund as the Council shall fix by some Bye Law to be made in that Behalf: Provided also, that all Rules hereafter to be made for regulating the Practice of such Courts shall be approved and signed by the Recorder of such Borough, if there shall be a Recorder, before the same shall be submitted to the Judges of the Superior Courts for Allowance and Confirmation by them according to the Provisions of said recited Act.

Repeal of Part of 5 & 6 W. 4. c. 76. as to Courts of Quarter Sessions for the Cinque Ports, and new Provision made.

X. And be it enacted, That so much of the said Act as provides that the Courts of Quarter Sessions of the Peace of the Towns and Ports of *Hastings*, *Sandwich*, *Dover*, and *Hythe*, and of the ancient Town of *Rye*, or of such of the said Towns and Ports and ancient Town to which His Majesty shall grant a separate Court of Quarter Sessions of the Peace, shall have Jurisdiction over Offences and Matters committed, arising, and happening within the Towns named in the Schedule to the said Act which are ancient Corporate Members and Liberties of the said Towns and Ports and ancient Town respectively, and to which His Majesty shall not grant a separate Court of Quarter Sessions of the Peace, and also provides that any or either of the said Towns and Ports of *Hastings*, *Sandwich*, *Dover*, and *Hythe*, and ancient Town of *Rye*, to which His Majesty shall not grant a separate Court of Quarter Sessions of the Peace, and their or its Members and Liberties, shall, for all Purposes relating to the Jurisdiction of Courts of Quarter Sessions of the Peace, be respectively within the Jurisdiction of the Courts of Quarter Sessions of the Peace of the nearest other of the said Towns and Ports or ancient Town to which His Majesty shall grant a separate Court of Quarter Sessions of the Peace, is hereby repealed; and it is hereby enacted, that, until other Provision shall be made by Parliament in that Behalf, Courts of General Sessions of the Peace and Gaol Delivery shall and may be holden in and for the said Towns and Ports of *Hastings*, *Sandwich*, *Dover*, and *Hythe*,

and ancient Town of *Rye*, or such of the said Towns and Ports and ancient Town to which His Majesty shall not grant a separate Court of Quarter Sessions of the Peace, and for the ancient Members and Liberties thereof, not being Corporate, and also in and for the Towns of *Deal*, *Faversham*, *Folkestone*, and *Tenterden*, or such of the said Towns to which His Majesty shall not grant a separate Court of Quarter Sessions of the Peace, before the Person who at the Time of the passing of the said Act was or acted as Recorder or Steward or Assessor, or by whatsoever other Name he was called, of the said Towns and Ports, ancient Town and Towns respectively, or in case of his Death or Resignation or Absence, or in case there was no such Recorder or Steward or Assessor, then before any Barrister at Law, of not less than Five Years Standing, whom His Majesty shall appoint to hold the same, in the same Manner in other respects, and with the same Powers and Authorities, as before the passing of the said Act, except as regards the Trial of Capital Felonies; and so long as such Courts of General Sessions of the Peace and Gaol Delivery shall be holden the Offices of Clerk of the Peace and Coroner shall be holden and exercised by the same Persons, or by the same Officers of such of the said Towns and Ports, ancient Town and Towns respectively, to which His Majesty shall not grant a separate Court of Quarter Sessions, by whom or by which the same were holden at the Time of the passing of the said Act, or in case of their Death or Resignation, or there being no longer such Officers, then by such Persons as the Councils of such Towns and Ports, ancient Town and Towns respectively, shall appoint to hold the same, with the same Powers and Authorities as before the passing of the said Act; and the Non-corporate Members and Liberties of the said Towns and Ports of *Hastings*, *Sandwich*, *Dover*, and *Hythe*, and the said ancient Town of *Rye*, shall and may be chargeable and charged by the Courts of General or Quarter Sessions of the Peace holden for the same respectively with a due Proportion of the Expences of such Towns and Ports and ancient Town respectively, and the Non-corporate Members and Liberties thereof, to the Payment of which Expences Rates in the Nature of County Rates are applicable, and the same shall and may be assessed and levied in the Manner in which Rates of that Description were assessed and levied before the passing of the said Act; and a due Proportion of Inhabitant Householders to serve as Grand Jurors and Jurors at the Courts of General or Quarter Sessions of the Peace of the said Towns and Ports of *Hastings*, *Sandwich*, *Dover*, and *Hythe*, and of the said ancient Town of *Rye*, shall be summoned by the Clerks of the Peace of the said Towns and Ports and ancient Town from the Non-corporate Members and Liberties thereof respectively, and the Attendance of such Jurors shall be enforced and their Defaults punished in the Manner by the said Act directed with respect to Jurors in Boroughs.

Justices acting under Commissions granted by virtue of 51 G. 3. c. 36. may exercise all the Powers

XI. And be it enacted, That His Majesty's Justices of the Peace acting under the Authority of a Commission or Commissions issued by virtue of an Act passed in the Fifty-first Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to facilitate the Execution of Justice within the Cinque Ports*, shall and may have and exercise all the Jurisdiction, Powers, and Authorities

of Justices in Counties relating to the granting of Licences to Victuallers.

Authorities belonging to Justices of the Peace in Counties relating to the granting of Licences or Authorities to Persons to keep Inns, Alehouses, or Victualling Houses, or to sell exciseable Liquors by Retail, within any of the said Towns and Ports of *Hastings*, *Sandwich*, *Dover*, and *Hythe*, and of the ancient Town of *Rye* respectively, which shall not have Justices of the Peace assigned to them by virtue of the said Act passed in the last Session of Parliament, and the Non-corporate Members and Liberties thereof, and also within any of the said Towns of *Deal*, *Faversham*, *Folkestone*, and *Tenterden* respectively, which shall not have Justices of the Peace assigned to them by virtue of the same Act.

His Majesty may appoint the Vice Chancellor of Cambridge University to be a Justice of the Borough.

XII. And whereas Doubts have been entertained whether, under the Provisions of the said recited Act, it may be lawful for His Majesty from Time to Time to constitute and appoint the Vice Chancellor of the University of *Cambridge* for the Time being a Justice of the Peace in and for the Town and Borough of *Cambridge*; be it therefore enacted, That it shall be lawful for His Majesty, His Heirs and Successors, from Time to Time, if His Majesty shall so think fit, in and by His Commission of the Peace for the said Town and Borough to constitute and appoint the Vice Chancellor of the University for the Time being a Justice of the Peace for the said Town and Borough, any thing in the said recited Act or in this Act to the contrary notwithstanding: Provided always, that no Vice Chancellor of the said University, by reason of his being named in any Commission of the Peace for the said Town and Borough, shall thereby have, as touching the Grant of Licences to Alehouses, any greater Authority as Justice of the Peace than any other Justice of the Peace named in any such Commission, but that nothing in this Act shall be construed to alter or in any way to affect the Rights and Privileges which the Vice Chancellor by virtue of his Office now lawfully has or enjoys, or might have lawfully had and enjoyed if the Vice Chancellor had not been appointed under the Provisions of this Act a Justice of the Peace for the said Town and Borough.

Proviso as to Vice Chancellor's Power of licensing Alehouses.

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