ANNO PRIMO & SECUNDO

GEORGII IV. REGIS.

CAP. LXVI.

An Act for regulating the Fur Trade, and establishing a Criminal and Civil Jurisdiction within certain Parts of *North America*. [2d *July* 1821.]

WHEREAS the Competition in the Fur Trade between the Governor and Company of Adventurers of *England* trading into *Hudson's Bay*, and certain Associations of Persons trading under the Name of "The North-west Company of *Montreal*," has been found for some Years past to be productive of great Inconvenience and Loss, not only to the said Company and Associations, but to the said Trade in general, and also of great Injury to the native *Indians*, and of other Persons Subjects of His Majesty: And whereas the Animosities and Feuds, arising from such Competition, have also for some Years past kept the Interior of *America*, to the Northward and Westward of the Provinces of *Upper* and *Lower Canada*, and of the Territories of the United States of *America*, in a State of continued Disturbance: And whereas many Breaches of the Peace, and Violence extending to the Loss of Lives, and considerable Destruction of Property, have continually occurred therein: And whereas, for Remedy of such Evils, it is expedient and necessary that some more effectual Regulations should be established for the apprehending, securing, and bringing to Justice all Persons committing such Offences, and that His Majesty should be empowered to regulate the said Trade: And whereas Doubts have been entertained, whether the Provisions of an Act

Act passed in the Forty-third Year of the Reign of His late Majesty
43G.3.c.138. King *George* the Third, intituled *An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of* Lower *and* Upper Canada, *to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of* North America *adjoining to the said Provinces*, extended to the Territories granted by Charter to the said Governor and Company; and it is expedient that such Doubts should be removed, and that the said Act should be further extended: 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 from and after the passing of this Act, it shall be lawful for His Majesty, His Heirs or Successors, to make Grants or give His Royal Licence, under the Hand and Seal of One of His Majesty's Principal Secretaries of State, to any Body Corporate, or Company, or Person or Persons, of or for the exclusive Privilege of Trading with the *Indians* in all such Parts of *North America* as shall be specified in any such Grants or Licences respectively, not being Part of the Lands or Territories heretofore granted to the said Governor and Company of Adventurers of *England* trading to *Hudson's Bay*, and not being Part of any of His Majesty's Provinces in *North America*, or of any Lands or Territories belonging to the United States of *America*; and all such Grants and Licences shall be good, valid, and effectual for the Purpose of securing to all such Bodies Corporate, or Companies, or Persons, the sole and exclusive Privilege of trading with the *Indians* in all such Parts of *North America* (except as herein-after excepted), as shall be specified in such Grants or Licences; any thing contained in any Act or Acts of Parliament, or any Law to the contrary notwithstanding.

Empowering His Majesty to make Grants for the exclusive Trade to certain Parts of North America.

II. Provided always, and be it further enacted, That no such Grant or Licence, made or given by His Majesty, His Heirs or Successors, of any such exclusive Privileges of trading with the *Indians* in such Parts of *North America* as aforesaid, shall be made or given for any longer Period than Twenty-one Years; and no Rent shall be required or demanded for or in respect of any such Grant or Licence, or any Privileges given thereby under the Provisions of this Act, for the first Period of Twenty-one Years; and from and after the Expiration of such first Period of Twenty-one Years, it shall be lawful for His Majesty, His Heirs or Successors, to reserve such Rents in any future Grants or Licences to be made to the same or any other Parties, as shall be deemed just and reasonable, with Security for the Payment thereof; and such Rents shall be deemed Part of the Land Revenues of His Majesty, His Heirs and Successors, and be applied and accounted for as the other Land Revenues of His Majesty, His Heirs or Successors, shall, at the Time of Payment of any such Rent being made, be applied and accounted for.

Limiting the Periods for which such Grants may be made.

III. And be it further enacted, That from and after the passing of this Act, the Governor and Company of Adventurers trading to *Hudson's Bay*, and every Body Corporate and Company and Person to whom every such Grant or Licence shall be made or given as aforesaid, shall respectively keep accurate Registers of all

Persons to whom such Grants shall be made, to enter into Security.

all Persons in their Employ in any Parts of *North America*, and shall, once in each Year, return to His Majesty's Secretaries of State, accurate Duplicates of such Registers, and shall also enter into such Security as shall be required by His Majesty for the due Execution of all Processes Criminal and Civil, as well within the Territories included in any such Grant, as within those granted by Charter to the Governor and Company of Adventurers trading to *Hudson's Bay*, and for the producing or delivering into safe Custody, for Purpose of Trial, of all Persons in their Employ or acting under their Authority, who shall be charged with any Criminal Offence, and also for the due and faithful Observance of all such Rules, Regulations, and Stipulations as shall be contained in any such Grant or Licence, either for diminishing or preventing the Sale or Distribution of Spirituous Liquors to the *Indians*, or for promoting their moral and religious Improvement, or for any other Object which His Majesty may deem necessary for the Remedy or Prevention of the other Evils which have hitherto been found to exist.

Such Grant of exclusive Trade not to interfere with Citizens of the United States beyond the Stony Mountains.

IV. And whereas by a Convention entered into between His Majesty and the United States of *America*, it was stipulated and agreed, that any Country on the North-west Coast of *America*, to the Westward of the *Stony Mountains*, should be free and open to the Citizens and Subjects of the Two Powers, for the Term of Ten Years from the Date of the Signature of that Convention; be it therefore enacted, That nothing in this Act contained shall be deemed or construed to authorize any Body Corporate, Company, or Person, to whom His Majesty may have, under the Provisions of this Act, made a Grant or given a Licence of exclusive Trade with the *Indians* in such Parts of *North America* as aforesaid, to claim or exercise any such exclusive Trade within the Limits specified in the said Article, to the Prejudice or Exclusion of any Citizens of the said United States of *America*, who may be engaged in the said Trade: Provided always, that no *British* Subject shall trade with the *Indians* within such Limits, without such Grant or Licence as is by this Act required.

43 G. 3. c. 138. extended to the Territories granted to the Hudson's Bay Company.

V. And be it declared and enacted, That the said Act passed in the Forty-third Year of the Reign of His late Majesty, intituled *An Act for extending the Jurisdiction of the Courts of Justices in the Provinces of* Lower *and* Upper Canada, *to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of* North America *adjoining to the said Provinces*, and all the Clauses and Provisoes therein contained, shall be deemed and construed, and it is and are hereby respectively declared, to extend to and over, and to be in full force in and through all the Territories heretofore granted to the Company of Adventurers of *England* trading to *Hudson's Bay*; any thing in any Act or Acts of Parliament, or this Act, or in any Grant or Charter to the Company, to the contrary notwithstanding.

Courts of Judicature established in Upper Canada to take Cognizance of

VI. And be it further enacted, That from and after the passing of this Act, the Courts of Judicature now existing, or which may be hereafter established in the Province of *Upper Canada*, shall have the same Civil Jurisdiction, Power, and Authority, as well in the Cognizance of Suits, as in the issuing Process, mesne and final, and in all other

Causes in Indian Territories.

other Respects whatsoever, within the said *Indian* Territories, and other Parts of *America* not within the Limits of either of the Provinces of *Lower* or *Upper Canada*, or of any Civil Government of the United States, as the said Courts have or are invested with within the Limits of the said Provinces of *Lower* or *Upper Canada* respectively; and that all and every Contract, Agreement, Debt, Liability, and Demand whatsoever, made, entered into, incurred, or arising within the said *Indian* Territories and other Parts of *America*, and all and every Wrong and Injury to the Person or to Property, Real or Personal, committed or done within the same, shall be and be deemed to be of the same Nature, and be cognizable by the same Courts, Magistrates, or Justices of the Peace, and be tried in the same Manner, and subject to the same Consequences in all respects, as if the same had been made, entered into, incurred, arisen, committed, or done within the said Province of *Upper Canada*; any thing in any Act or Acts of Parliament, or Grant or Charter, to the contrary notwithstanding: Provided always, that all such Suits and Actions relating to Lands, or to any Claims in respect of Land, not being within the Province of *Upper Canada*, shall be decided according to the Laws of that Part of the United Kingdom called *England*, and shall not be subject to or affected by any Local Acts, Statutes, or Laws of the Legislature of *Upper Canada*.

Actions relating to Lands not within the Province of Upper Canada to be decided according to the Law of England.

Proceedings of Courts to be issued in the same Manner as heretofore.

VII. And be it further enacted, That all Process, Writs, Orders, Judgments, Decrees, and Acts whatsoever, to be issued, made, delivered, given, and done by or under the Authority of the said Courts, or either of them, shall have the same Force, Authority, and Effect within the said *Indian* Territory and other Parts of *America* as aforesaid, as the same now have within the said Province of *Upper Canada*.

Appointment of Justices of Peace.

VIII. And be it further enacted, That it shall be lawful for the Governor or Lieutenant Governor or Person administering the Government for the Time being of *Lower Canada*, by Commission under his Hand and Seal, to authorize all Persons who shall be appointed Justices of the Peace under the Provisions of this Act, within the said *Indian* Territories, or other Parts of *America* as aforesaid, or any other Person who shall be specially named in any such Commission, to act as a Commissioner within the same, for the Purpose of executing, enforcing, and carrying into Effect all such Process, Writs, Orders, Judgments, Decrees, and Acts, which shall be issued, made, delivered, given, or done by the said Courts of Judicature, and which may require to be enforced and executed within the said *Indian* Territories, or such other Parts of *North America* as aforesaid; and in case any Person or Persons whatsoever residing or being within the said *Indian* Territories, or such other Parts of *America* as aforesaid, shall refuse to obey or perform any such Process, Writ, Order, Judgment, Decree, or Act of the said Courts, or shall resist or oppose the Execution thereof, it shall and may be lawful for the said Justices of the Peace or Commissioners, and they or any of them are and is hereby required, on the same being proved before him, by the Oath or Affidavit of One credible Witness, to commit the said Person or Persons so offending as aforesaid to Custody, in order to his or their being conveyed to *Upper*

Canada; and that it shall be lawful for any such Justice of the Peace or Commissioner, or any Person or Persons acting under his Authority, to convey or cause to be conveyed such Person or Persons so offending as aforesaid to *Upper Canada*, in pursuance of such Process, Writ, Order, Decree, Judgment, or Act, and such Person and Persons shall be committed to Gaol by the said Court, on his, her, or their being so brought into the said Province of *Upper Canada*, by which such Process, Writ, Order, Decree, Judgment, or Act was issued, made, delivered, given, or done, until a final Judgment or Decree shall have been pronounced in such Suit, and shall have been duly performed, and all Costs paid, in case such Person or Persons shall be a Party or Parties in such Suit, or until the Trial of such Suit shall have been concluded, in case such Person or Persons shall be a Witness or Witnesses therein: Provided always, that if any Person or Persons so apprehended as aforesaid shall enter into a Bond Recognizance to any such Justice of the Peace or Commissioner, with Two sufficient Sureties, to the Satisfaction of such Justice of the Peace or Commissioner, or the said Courts, conditioned to obey and perform such Process, Writ, Order, Judgment, Decree or Act as aforesaid, then and in such Case it shall and may be lawful for the said Justice of the Peace or Commissioner, or the said Courts, to discharge such Person or Persons out of Custody.

For assigning Recognizances issued.

IX. And be it further enacted, That in case such Person or Persons shall not perform and fulfil the Condition or Conditions of such Recognizance, then and in such Case it shall and may be lawful for any such Justice or Commissioner, and he is hereby required, to assign such Recognizance to the Plaintiff or Plaintiffs, in any Suit in which such Process, Writ, Order, Decree, Judgment, or Act shall have been issued, made, delivered, given, or done, who may maintain an Action in the said Courts in his own Name against the said Sureties, and recover against such Sureties the full Amount of such Loss or Damage as such Plaintiff shall prove to have been sustained by him, by reason of the original Cause of Action in respect of which such Process, Writ, Order, Decree, Judgment, or Act of the said Courts were issued, made, delivered, given, or done as aforesaid, notwithstanding any thing contained in any Charter granted to the said Governor and Company of Adventurers of *England* trading to *Hudson's Bay*.

Appointment of Justices to determine Causes.

X. And be it further enacted, That it shall be lawful for His Majesty, if He shall deem it convenient so to do, to issue a Commission or Commissions to any Person or Persons to be and act as Justices of the Peace within such Parts of *America* as aforesaid, as well within any Territories heretofore granted to the Company of Adventurers of *England* trading to *Hudson's Bay*, as within the *Indian* Territories of such other Parts of *America* as aforesaid; and it shall be lawful for the Court in the Province of *Upper Canada*, in any Case in which it shall appear expedient to have any Evidence taken by Commission, or any Facts or Issue, or any Cause or Suit ascertained, to issue a Commission to any Three or more of such Justices to take such Evidence, and return the same, or try such Issue, and for that Purpose to hold Courts, and to issue Subpœnas or other Processes to compel Attendance of Plaintiffs, Defendants, Jurors, Witnesses, and all other

Persons requisite and essential to the Execution of the several Purposes for which such Commission or Commissions had issued, and with the like Power and Authority as are vested in the Courts of the said Province of *Upper Canada;* and any Order, Verdict, Judgment, or Decree that shall be made, found, declared, or published by or before any Court or Courts held under and by virtue of such Commission or Commissions, shall be considered to be of as full Effect, and enforced in like Manner, as if the same had been made, found, declared, or published within the Jurisdiction of the Court of the said Province; and at the Time of issuing such Commission or Commissions shall be declared the Place or Places where such Commission is to be opened, and the Courts and Proceedings thereunder held; and it shall be at the same Time provided how and by what Means the Expences of such Commission, and the Execution thereof, shall be raised and provided for.

His Majesty may issue Commissions under the Great Seal empowering Justices to hold Courts of Record for the Trial of Criminal and Civil Offences.

XI. And be it further enacted, That it shall be lawful for His Majesty, notwithstanding any thing contained in this Act, or in any Charter granted to the said Governor and Company of Adventurers of *England* trading to *Hudson's Bay*, from Time to Time, by any Commission under the Great Seal, to authorize and empower any such Persons so appointed Justices of the Peace as aforesaid, to sit and hold Courts of Record for the Trial of Criminal Offences and Misdemeanors, and also of Civil Causes; and it shall be lawful for His Majesty to order, direct, and authorize the Appointment of proper Officers to act in aid of such Courts and Justices within the Jurisdiction assigned to such Courts and Justices in any such Commission; any thing in this Act, or in any Charter of the Governor and Company of Merchant Adventurers of *England* trading to *Hudson's Bay*, to the contrary notwithstanding.

Court to be constituted as His Majesty shall direct.

Power of the Court not to extend to Capital Offences; nor to Civil Actions where the Amount in Issue exceeds 200*l.*

XII. Provided always, and be it further enacted, That such Courts shall be constituted, as to the Number of Justices to preside therein, and as to such Places within the said Territories of the said Company, or any *Indian* Territories, or other Parts of *North America* as aforesaid, and the Times and Manner of holding the same, as His Majesty shall from Time to Time order and direct; but shall not try any Offender upon any Charge or Indictment for any Felony made the Subject of Capital Punishment, or for any Offence or passing Sentence affecting the Life of any Offender, or adjudge or cause any Offender to suffer Capital Punishment or Transportation, or take Cognizance of or try any Civil Action or Suit, in which the Cause of such Suit or Action shall exceed in Value the Amount or Sum of Two hundred Pounds; and in every case of any Offence subjecting the Person committing the same to Capital Punishment or Transportation, the Court or any Judge of any such Court, or any Justice or Justices of the Peace, before whom any such Offender shall be brought, shall commit such Offender to safe Custody, and cause such Offender to be sent in such Custody for Trial in the Court of the Province of *Upper Canada*.

XIII. And be it further enacted, That all Judgments given in any Civil Suit shall be subject to Appeal to His Majesty in Council, in like Manner as in other Cases in His Majesty's Province of *Upper Canada*, and also in any Case in which the Right or Title to any Land shall be in question. Allowing an Appeal.

XIV. And be it further enacted, That nothing in this Act contained shall be taken or construed to affect any Right, Privilege, Authority, or Jurisdiction which the Governor and Company of Adventurers trading to *Hudson's Bay* are by Law entitled to claim and exercise under their Charter; but that all such Rights, Privileges, Authorities, and Jurisdictions shall remain in as full force, virtue, and effect, as if this Act had never been made; any thing in this Act to the contrary notwithstanding. Act not to affect Rights of Hudson's Bay Company.

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