ANNO QUARTO

GEORGII IV. REGIS.

****

C A P. LXXI.

An Act for defraying the Charge of Retiring Pay, Pensions, and other Expences of that Nature, of His Majesty's Forces serving in *India*; for establishing the Pensions of the Bishop, Archdeacons, and Judges; for regulating Ordinations; and for establishing a Court of Judicature at *Bombay*. [11th *July* 1823.]

WHEREAS by an Act made and passed in the Thirty-third Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for continuing in the* East India *Company, for a further Term, the Possession of the* British *Territories in* India, *together with their exclusive Trade, under certain Limitations; for establishing further Regulations for the Government of the said Territories, and the better Administration of Justice within the same; for appropriating to certain Uses the Revenues and Profits of the said Company; and for making Provision for the good Order and Government of the Towns of* Calcutta, Madras *and* Bombay, it is enacted, that all Sums issued by the Paymaster General of His Majesty's Forces for and on account of His Majesty's Forces serving in *India*, or for raising and supplying Recruits for the same, shall be repaid by the said United Company, and that the actual Expences only which are incurred for the Support and Maintenance of the said Troops shall be borne and defrayed by the said United Company: And whereas, by another Act made and passed in the Fifty-third Year of the Reign of His said late Majesty, intituled *An Act for continuing in the* East India *Company, for a further Term, the Possession of the* British *Territories in* India, *together with certain exclusive Privileges; for establishing further Regulations for the Government of the said Territories, and the better Administration of Justice within the same; and for regulating the Trade to and from the Places within the Limits of the*

33 G. 3. c. 52.

53 G. 3. c. 155.

the said Company's Charter, it is enacted, that for and during the Continuance of the Possession and Government of the said Territorial Acquisitions and Revenues in the said United Company, the Rents, Revenues, and Profits arising from the said Territorial Acquisitions, after defraying the Charges and Expences of collecting the same, should be applied and disposed of to and for the Uses and Purposes and in the Order of Preference therein-after expressed, and to or for no other Use or Purpose or in any other Manner whatsoever, any Act or Acts of Parliament then in force to the contrary notwithstanding; and in the first Place in defraying all the Charges and Expences of raising and maintaining the Forces, as well *European* as Native Military, Artillery, and Marine on the Establishments in the *East Indies* and Parts aforesaid, and of maintaining the Forts and Garrisons there, and providing Warlike and Naval Stores; but no Provision has been made for the Charge incurred for Retiring Pay and Pensions, and other Expences of that Nature, arising in respect of His Majesty's Forces serving in *India*; and the said United Company in Consideration thereof have agreed to pay, for those Purposes, the annual Sum of Sixty thousand Pounds, to commence from the Thirtieth Day of *April* One thousand eight hundred and twenty-two, out of the Territorial Revenues in the *East Indies*, as herein-after mentioned; 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 over and above all Sum and Sums of Money now payable by the said United Company in respect of His Majesty's Forces serving in the *East Indies*, the annual Sum of Sixty thousand Pounds, to commence from the said Thirtieth Day of *April* One thousand eight hundred and twenty-two, shall be paid out of the Rents, Revenues, and Profits arising from the said Territorial Acquisitions, in full Discharge and Satisfaction of all Claims upon the said Company for Retiring Pay, Pensions, and other Expences of that Nature, granted or payable by His Majesty or by Authority of Parliament or otherwise, in respect of any of the Forces of His Majesty which have served, are now serving, or which hereafter may serve in the *East Indies*; such annual Sum of Sixty thousand Pounds to be payable by the said United Company out of any Money in their Treasury applicable to the Territorial Charges in the *East Indies*, by even Quarterly Payments, on the Thirtieth Day of *July*, the Thirtieth Day of *October*, the Thirtieth Day of *January*, and the Thirtieth Day of *April* in every Year, into the Receipt of His Majesty's Exchequer, there to remain at the Disposal of Parliament; and such Payments shall be charged upon and borne by the Rents, Revenues, and Profits arising from the Territorial Acquisitions, in the same Order as the Charges and Expences of raising and maintaining the said Forces are now charged and borne.

In addition to the Sum now payable, the East India Company to pay an annual Sum of 60,000*l.* for Retiring Pay, Pensions or other Allowances of His Majesty's Forces serving in India.

To be paid quarterly.

II. And whereas by the said Act of the Fifty-third Year of the Reign of His said late Majesty King *George* the Third, Provision was made for granting certain Pensions to the Bishop of *Calcutta*, and the Archdeacons of *Calcutta*, *Madras*, and *Bombay* respectively, who should have exercised in the *East Indies*, or Parts in the said Act mentioned, for Fifteen Years, the Office or Offices of Bishop or Archdeacon; and it is expedient to shorten the Period during which such Bishops and Archdeacons respectively are required to hold their

Repeal of Provision in 53G.3.c.155. respecting Pensions of Bishop and Archdeacons.

their said Offices before such Pensions could be granted to them respectively, and to make other Provisions respecting such Pensions; be it enacted, That so much of the said Act as relates to such Pensions shall be and the same is hereby repealed.

Pensions to Bishop and Archdeacons.

III. And be it further enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, in Manner in the said Act mentioned, to grant to any such Bishop who shall have exercised in the *East Indies*, or Parts aforesaid, for Ten Years, the Office of Bishop or Archdeacon, and to any such Archdeacon who shall have exercised in the *East Indies* or Parts aforesaid, for Ten Years, the Office of Archdeacon, Pensions not exceeding such Sums respectively as His Majesty by the said Act of the Fifty-third Year of the Reign of His late Majesty is empowered to grant to any such Bishop or Archdeacon.

Chaplains acting as Archdeacons to be entitled to Pension, in a certain Proportion.

IV. Provided also, and be it further enacted, That if any Person residing any Time in the *East Indies* or Parts aforesaid as One of the Chaplains of the said United Company, shall have been or shall be appointed to the Office of such Archdeacon as aforesaid, and shall have resided in the *East Indies* or Parts aforesaid as such Archdeacon Seven Years, the Period of Residence of such Person as Chaplain shall be accounted and taken as and for a Residence as such Archdeacon, in the Proportion of Three Years Residence as such Chaplain, to Two Years Residence as such Archdeacon: Provided also, that nothing herein contained shall extend or be construed to extend to prejudice the Right of any Person being or having been a Chaplain of the said United Company, to any Benefit he may be entitled to under or by virtue of any Regulation now in force, or hereafter to be made by the said United Company or their Court of Directors, nor to prejudice or affect the Right of the said United Company, or their Court of Directors, to make, repeal, vary or alter any Regulation or Regulations respecting the Chaplains of the said United Company, or the Pay or Allowances, Pensions, or Retirements of such Chaplains which the said United Company or their Court of Directors may now lawfully make, repeal, vary, or alter.

Further Provision as to Chaplains.

Residence and Expence of Visitations of Bishop to be defrayed by the Company.

V. And whereas it is proper that a suitable House of Residence should be provided for the said Bishop, and that the Expences of his Visitations should be defrayed by the said Company; be it therefore further enacted, That it shall and may be lawful for the said Company, and they are hereby required to provide a suitable House at *Calcutta* for the Residence of the said Bishop, and that the Expence of the Visitations to be made by the said Bishop from Time to Time shall be defrayed by the said Company, out of the Revenues of the *British* Territories in *India*: Provided always, that no greater Sum on account of providing such House, or of such Visitations, be at any Time issued, than shall from Time to Time be defined and settled by the Court of Directors of the said Company with the Approbation of the Commissioners for the Affairs of *India*, any Law or Statute to the contrary notwithstanding.

Power to the Bishop of Calcutta to admit Persons to Holy Orders.

VI. And whereas Doubts have arisen whether the Bishop of *Calcutta*, in conferring Holy Orders, is subject to the several Provisions and Limitations established by the Laws of this Realm or Canons Eccle-

Ecclesiastical, as to the Titles of the Persons to be ordained, and as to the Oaths and Subscriptions to be by such Persons taken and made; be it further declared and enacted, That it shall and may be lawful for the Bishop of *Calcutta* for the Time being to admit into the Holy Orders of Deacon and Priest respectively any Person whom he shall, upon Examination, deem duly qualified, specially for the Purpose of taking upon himself the Cure of Souls, or officiating in any Spiritual Capacity within the Limits of the said Diocese of *Calcutta*, and residing therein; and that a Declaration of such Purpose, and a written Engagement to perform the same, under the Hand of such Person, being deposited in the Hands of such Bishop, shall be held to be a sufficient Title with a view to such Ordination; and that in every such Case, it shall be distinctly stated in the Letters of Ordination of every Person so admitted to Holy Orders, that he has been ordained for the Cure of Souls within the Limits of the said Diocese of *Calcutta* only; and that unless such Person shall be a *British* Subject of or belonging to the United Kingdom of *Great Britain* and *Ireland*, he shall not be required to take and make the Oaths and Subscriptions which Persons ordained in *England* are required to take and make: Provided always, that nothing herein contained shall be construed to repeal or affect the Provisions of an Act passed in the Fifty-third Year of the Reign of His late Majesty King *George* the Third, intituled *An Act for continuing in the* East India *Company, for a further Term, the Possession of the* British *Territories in* India, *together with certain exclusive Privileges; for establishing further Regulations for the Government of the said Territories, and the better Administration of Justice within the same; and for regulating the Trade to, and from the Places within the Limits of the said Company's Charter*, or any Letters Patent issued by His late Majesty, or by His present Majesty, their Heirs and Successors, in virtue of the said Act or of their lawful Prerogative.

Provisions of 53 G. 3. c. 155. not to be affected.

VII. And whereas His late Majesty King *George* the Second did, by His Letters Patent bearing Date at *Westminster* the Eighth Day of *January* in the Twenty-sixth Year of His Reign, grant unto the United Company of Merchants of *England* trading to the *East Indies* His Royal Charter, thereby, amongst other Things, constituting and establishing Courts of Civil, Criminal, and Ecclesiastical Jurisdiction at the United Company's respective Settlements at *Madraspatnam*, *Bombay* or the Island of *Bombay*, and *Fort William* in *Bengal*: And whereas the said Charter, in as far as it respects the Administration of Justice at *Bombay*, has been altered and changed by virtue of an Act passed in the Thirty-seventh Year of His late Majesty King *George* the Third, intituled *An Act for the better Administration of Justice at* Calcutta, Madras, *and* Bombay; *and for preventing* British *Subjects from being concerned in Loans to Native Princes in* India; and by Letters Patent granted by His said late Majesty King *George* the Third, and bearing Date at *Westminster* on the Twentieth Day of *February* in the Thirty-eighth Year of His Reign, amongst other Things, for the Establishment of a Court called "The Court of the "Recorder of *Bombay*:" And whereas the said Charter of the Eighth Day of *January* in the Twenty-sixth Year of the Reign of His Majesty King *George* the Second, so far as it respects the Administration of Justice at *Fort William* in *Bengal*, has been altered and changed by virtue of an Act passed in the Thirteenth Year of His

Supreme Court of Judicature at Bombay to be established.

37 G. 3. c. 142.

said late Majesty King *George* the Third, intituled *An Act for establishing certain Regulations for the better Management of the Affairs of the* East India *Company, as well in* India *as in* Europe, and by divers subsequent Statutes: And whereas the said last-mentioned Charter, so far as it respects the Administration of Justice at *Madras*, has been altered or changed by virtue of the said Act of the Thirty-seventh Year of His said late Majesty King *George* the Third, and also by an Act of the Thirty-ninth and Fortieth Years of His said late Majesty, intituled *An Act for establishing certain Regulations for the Government of the* British *Territories in* India, *and the better Administration of Justice within the same*: And whereas it may be expedient, for the better Administration of Justice in the said Settlement of *Bombay*, that a Supreme Court of Judicature should be established at *Bombay*, in the same Form and with the same Powers and Authorities as that now subsisting by virtue of the several Acts before mentioned at *Fort William* in *Bengal*; be it therefore enacted, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Charter or Letters Patent under the Great Seal of *Great Britain*, to erect and establish a Supreme Court of Judicature at *Bombay* aforesaid, to consist of such and the like Number of Persons, to be named from Time to Time by His Majesty, His Heirs and Successors, with full Power to exercise such Civil, Criminal, Admiralty, and Ecclesiastical Jurisdiction, both as to Natives and *British* Subjects, and to be invested with such Powers and Authorities, Privileges and Immunities, for the better Administration of the same, and subject to the same Limitations, Restrictions, and Controul, within the said Town and Island of *Bombay*, and the Limits thereof, and the Territories subordinate thereto, and within the Territories which now are or hereafter may be subject to or dependent upon the said Government of *Bombay*, as the said Supreme Court of Judicature at *Fort William* in *Bengal* by virtue of any Law now in force and unrepealed doth consist of, is invested with, or subject to, within the said *Fort William*, or the Places subject to or dependent on the Government thereof: Provided always, that the Governor and Council at *Bombay*, and the Governor General at *Fort William* aforesaid, shall enjoy the same Exemption and no other, from the Authority of the said Supreme Court of Judicature to be there erected, as is enjoyed by the said Governor General and Council at *Fort William* aforesaid for the Time being, from the Jurisdiction of the Supreme Court of Judicature there already by Law established.

13 G. 3. c. 63.

39 & 40 G. 3. c. 79.

VIII. And be it further enacted, That if His Majesty, His Heirs or Successors, shall grant such Charter as aforesaid, and erect such Supreme Court of Judicature at *Bombay* as aforesaid, all the Records, Muniments, and Proceedings whatsoever, of and belonging to the late Mayor's Court at *Bombay*, or to the late Court of Oyer and Terminer and Gaol Delivery, which were by the said Act passed in the Thirty-seventh Year of His said late Majesty King *George* the Third directed to be delivered over, preserved, and deposited in the new Courts erected by virtue of the said Act, and all Records, Muniments, and Proceedings whatsoever, of and belonging to the said Court of the Recorder of *Bombay*, or to any of the Courts established under and by virtue of the said Act passed in the Thirty-seventh Year of the Reign of His said late Majesty King *George* the Third, shall from and immediately after such Supreme Court of Judicature, as His Majesty

Records of Mayor's Court at Bombay to be delivered over to Supreme Court.

jesty is hereby empowered to erect, shall be established at *Bombay*, be delivered over to be preserved and deposited for safe Custody in the said Supreme Court of Judicature to be erected at *Bombay*, to which all Parties concerned shall and may have resort and recourse upon Application to the said Court.

Repeal of so much of Charter and Acts as relate to Court of Recorder.

IX. And be it further enacted, That so much of the Charter granted by His said late Majesty King *George* the Third, for erecting the Court of the Recorder of *Bombay*, as relates to the Appointment of such Recorder and the erecting of such Courts of Judicature at *Bombay*, in case a new Charter shall be granted by His Majesty, His Heirs or Successors, and shall be openly published at *Bombay*, from and immediately after such Publication shall cease and determine, and be absolutely void to all Intents and Purposes whatsoever; and all Powers and Authorities granted by the said Act of the Thirty-seventh Year of His said late Majesty King *George* the Third, to the said Court of the Recorder at *Bombay*, shall cease and determine and be no longer exercised by the said Court, but the same shall and may be exercised by the Supreme Court of Judicature to be erected by virtue of this Act, in the Manner and to the Extent hereinbefore directed.

Salaries to Chief Justice and each of the Judges.

X. And be it further enacted, That when the said Supreme Court of Judicature which His Majesty is hereby empowered to erect shall be erected, the Court of Directors of the said United Company shall and they are hereby required to direct and cause to be paid certain and established Salaries to the Chief Justice and each of the Judges of such Supreme Court of Judicature at *Bombay*, as shall be by the new Charter established; that is to say, to the Chief Justice Fifty-two thousand two hundred *Bombay* Rupees by the Year; and to each of the Puisne Judges of the said Supreme Court of Judicature at *Bombay*, Forty-three thousand five hundred *Bombay* Rupees by the Year; and that such Salaries shall be paid and payable to each and every of them respectively out of the Territorial Revenues of the said Settlement of *Bombay*.

Salaries to be in lieu of all Fees.

XI. And be it further enacted, That the said Salaries of such Chief Justice and Judges shall commence and take place from and after their respectively taking upon them the Execution of their Office as aforesaid, and that all such Salaries shall be in lieu of all Fees of Office, Perquisites, Emoluments, and Advantages whatsoever; and that no Fees of Office, Perquisites, Emoluments, or Advantages whatsoever, shall be accepted, received, or taken in any Manner or on any Account or Pretence whatsoever, other than such Salaries or Allowances as are in and by this Act directed to be paid.

Defraying Expences of Equipment and Voyage.

XII. And be it further enacted, That the said Court of Directors shall and they are hereby required to pay and advance to every Person who shall be appointed Chief Justice of the said Supreme Court to be erected in pursuance of this Act, and who shall be resident in the United Kingdom at the Time of his Appointment, the Sum of One thousand two hundred Pounds, and to every Person who shall be appointed Puisne Judge of the said Court, and who shall be resident in the United Kingdom at the Time of his Appointment, the Sum of One thousand Pounds, for the Purpose of defraying the Expences of their Equipment and Voyage.

XIII. Provided always, and be it further enacted, That when either of the Judges of the Supreme Court of Judicature, which His Majesty is hereby empowered to erect at *Bombay*, shall respectively leave *India*, the Salary payable under and by virtue of this Act to any such Judge shall cease and be no longer paid; any thing herein contained to the contrary thereof in anywise notwithstanding. Salary to cease on Judge's leaving India.

XIV. And be it further enacted, That so much of the said Acts of the Thirty-seventh and of the Thirty-ninth and Fortieth Years of His late Majesty King *George* the Third, as relates to the Time during which the Chief Justices, Judges, and Recorder of the Courts therein mentioned are required to reside in *India* before any Allowances can lawfully be made to them upon Retirement, or which limits the Amount in the Whole to be paid on account of such Allowances, shall be and the same is hereby repealed. Repeal of Provision in 39 & 40 G. 3. c. 79. respecting India Judges Time of Residence to entitle them to Pensions.

XV. And be it further enacted, That if either of the Chief Justices or Puisne Judges of the said Supreme Court of Judicature of *Fort William*, or of the said Supreme Court of Judicature at *Madras*, or of the said Supreme Court of Judicature to be erected at *Bombay*, or the Recorder of the Court of Judicature of *Prince of Wales's Island*, shall resign his Office in consequence of Age, Infirmity, or other Cause, to be approved by His Majesty, His Heirs or Successors, it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrants under the Sign Manual, to direct and authorize an Allowance to be made out of the Revenues of the *British* Territories in *India* to such Chief Justice, Judge, or Recorder so resigning: Provided always, that it shall not be lawful for His Majesty to direct any such Allowance to be made to any Person who shall not have resided in *India* for Ten Years, either as Chief Justice or Puisne Judge of one of the said Supreme Courts, or as Recorder of *Bombay*; and that it shall not be lawful for His Majesty to direct any larger Allowance to be made to any Chief Justice of any of the said Supreme Courts so retiring as aforesaid, than the Amount hereafter limited for the Allowance to be made to the Puisne Judges of such Courts respectively, unless he shall have holden the Office of such Chief Justice during Five Years of such his Residence in *India* as aforesaid; nor if he shall, having holden the said Office of Chief Justice during such Five Years of such his Residence in *India* as aforesaid, shall it be lawful to direct any larger Allowance to be made to the Chief Justice of the said Supreme Court of *Fort William*, than the Sum of Two thousand Pounds Sterling *per Annum*, nor to either of the Chief Justices of the said Supreme Courts of *Madras* or *Bombay*, than the Sum of One thousand six hundred Pounds Sterling *per Annum*; and that it shall not be lawful for His Majesty to direct any Allowance to be made to either of the Puisne Judges of the said Court of *Fort William*, so retiring as aforesaid, than the Sum of One thousand five hundred Pounds Sterling *per Annum*; nor to either of the Puisne Judges of the said Supreme Courts at *Madras* or *Bombay*, than the Sum of One thousand two hundred Pounds Sterling *per Annum*; and that it shall not be lawful for His Majesty to direct any Allowances to be made to the Recorder of the said Court of Judicature of *Prince of Wales's Island*, unless he shall have resided in the *East Indies* as such Recorder Ten Years, nor in that Case any larger Allowance than the Sum of One thousand Pounds Sterling *per Annum*. Pensions to Chief Justices and Judges on Resignation. Residence to be for a certain Period to entitle to Allowance. Allowances limited.

XVI. Pro-

Time of any Judge's acting as Recorder of Prince of Wales's Island, to be reckoned as a Part of his Service as a Judge.

XVI. Provided also, and be it further enacted, That if any Person having for any Time resided in the *East Indies* as Recorder of the said Court of Judicature of *Prince of Wales's Island*, shall have been or shall be appointed to the Office of Chief Justice or Puisne Judge of either of the said Supreme Courts of *Fort William*, *Madras*, or *Bombay*, the Period of Residence of such Person in the *East Indies*, as such Recorder of the said Court of Judicature of *Prince of Wales's Island*, shall be accounted and taken as and for a Residence in *India* as a Puisne Judge of such Courts respectively, in the Proportion of Three Years Residence as such Recorder to Two Years Residence as such Puisne Judge; and that if such Person shall have resided in the *East Indies* as such Recorder, or as such Chief Justice or Puisne Judge for Ten Years, it shall and may be lawful for His Majesty, His Heirs and Successors, in manner herein-before mentioned, to direct such Allowance to be made to such Person as might lawfully be directed in case such Person had resided the whole of such Time as such Chief Justice or Puisne Judge as aforesaid.

Court at Madras and Bombay to have the same Powers as the Court at Fort William in Bengal.

XVII. And be it further declared and enacted, That it hath been and is and shall be lawful for the Supreme Court of Judicature at *Madras*, within *Fort Saint George* and the Town of *Madras* and the Limits thereof, and the Factories subordinate thereto, and within the Territories which now are or hereafter may be subject to or dependent upon the Government of *Madras*; and that it shall be lawful for the said Supreme Court of Judicature at *Bombay*, to be created by virtue of this Act, within the said Town and Island of *Bombay* and the Limits thereof, and the Factories subordinate thereto, and within the Territories which now are or hereafter may be subject to or dependent upon the said Government of *Bombay*; and the said Supreme Courts respectively are hereby required, within the same respectively, to do, execute, perform, and fulfil all such Acts, Authorities, Duties, Matters, and Things whatsoever, as the said Supreme Court of *Fort William* is or may be lawfully authorized, empowered, or directed to do, execute, perform, and fulfil within *Fort William* in *Bengal* aforesaid, or the Places subject to or dependent upon the Government thereof.

Present Pensions not to be affected.

XVIII. Provided always, and be it further enacted, That nothing in this Act contained shall extend or be construed to extend to affect any Warrant which may have been granted by His Majesty before the passing of this Act, in virtue of any Act now in force, for the Payment of a Pension to any Person who has resigned the Office of Chief Justice or Judge of the Supreme Court of Judicature at *Fort William* in *Bengal* or at *Madras*, nor to affect the Power of His Majesty to grant such Warrants in favour of any Person now exercising the Office of Chief Justice or Judge; and that any such Warrant and Warrants shall be obligatory on the said Company, in like Manner and under the same Restrictions and Provisions as if this Act had not passed.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1823.

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