

The case of *Blankard v. Galdy* is one to which very frequent reference will be necessary. The matter at issue was a suit on a bond, and involved the extension of an English Act to Jamaica. The counsel for the plaintiff argued that Jamaica was an island beyond the sea conquered from the Indians and the Spaniards in Queen Elizabeth's time³ [sic], that the inhabitants were bound by their own law, and that as they were not represented in Parliament, so they could not be bound by English statutes unless specially named. Statutes were cited—among them 5 Eliz. ch. 4, as to servants—which would be destructive if enforced there, and others, such as the Act of Usury, which does not apply, "for they allow them more for the loan of money than is permitted by that law." Several Acts of Parliament which have "taken notice" of Jamaica are cited.

Then is adduced the Earl of Derby's Case, where the Court held that English statutes did not bind the inhabitants of the Isle of Man, a conquered province, unless they were specially mentioned.

Counsel for the defendant argued contra that the liberties lost were those of the conquered; those that conquer cannot by this conquest lose their laws, which are their birthright, and which they carry with them wherever they go. Calvin's Case is then cited, with emphasis in its distinctions between heathen and Christian conquered countries. The experience of Ireland is used to point out an analogy between that and the situation of Jamaica.⁴

The Court held, in part:

1. In case of an uninhabited country newly found out by English subjects, all laws in force in England are in force there: so it seemed to be agreed.

2. Jamaica being conquered and not pleaded to be parcel of the Kingdom of England but part of the possessions and revenue of the Crown of England, the laws of England did not take place there, until declared so by the conqueror or his successors.

³ The Conquest did not take place, of course, until Cromwell's time, in 1655. An attack was made in Elizabeth's reign, in 1596, under Shirley, but this was not followed up. See Preface to *The Importance of Jamaica to Great Britain Considered*: London, 1741? This tract deals rather lightly with Constitutional History.

⁴ See below p. 28.

⁵ 4 Modern 215 ff. Salkeld 411.