ANNO TRICESIMO OCTAVO

GEORGII III. REGIS.

C A P. XXXVIII.

An Act for declaring the Validity of Two Orders in Council, dated the Sixth Day of *August* One thousand seven hundred and ninety-four, and the Thirtieth Day of *March* One thousand seven hundred and ninety-eight; and for enlarging the Time of appealing in Prize Causes; and for permitting Appeals to be prosecuted after such Time shall have elapsed, in such Special Causes as His Majesty, by any Order in Council, shall authorize. [7th *May* 1798.]

Preamble.

Order in Council, dated *Aug.* 6, 1794.

WHEREAS an Order was made on the Sixth Day of *August* One thousand seven hundred and ninety-four, by His Majesty in Council, in the Words or to the Effect following; that is to say, " Whereas, in many of His Majesty's Vice Admiralty Courts in the *West Indies*, Sentences of Condemnation have passed against Ships and Goods belonging to the Subjects of the United States of *America*: And whereas, from Ignorance of the Rules respecting the Times for appealing, or from Inability to find the Security required, or from other just and reasonable Impediments, the Claimants have been prevented from duly entering and prosecuting their Appeals from the said Sentences: And whereas, it hath been represented to His Majesty on their

Behalf, that they are desirous of entering and prosecuting the same, His Majesty is thereupon pleased, by and with the Advice of His Privy Council, to order, and it is hereby ordered, that the said Parties shall be admitted to their respective Appeals, notwithstanding the ordinary Time for entering and prosecuting the same may be elapsed, provided the same are entered and prosecuted within a reasonable Time, to be approved by the Lords Commissioners of Appeals in Prize Causes:" And whereas Doubts have been lately entertained respecting the Validity of the said Order: And whereas it is expedient that such Doubts should be removed: And whereas an Order was made by His Majesty in Council on the Thirtieth Day of *March* One thousand seven hundred and ninety-eight, declaring, that it was His royal Intention in the former Order that Appeals from Sentences given in the Vice Admiralty Courts of *Bermuda* and the *Bahama Islands*, should be permitted under the Authority thereof, and that Parties complaining of Sentences given in those Courts should be entitled to the full Benefit of the said Order; be it therefore declared and 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 said Orders, and all Proceedings duly had or to be had, according to and under the Authority of the said Orders, upon Appeals from Sentences given in the Vice Admiralty Courts in the *West Indies*, or in the *Bermuda* or *Bahama Islands*, shall be, and be deemed and taken to be, and to have been respectively legal and valid in the Law, to all Intents and Purposes: Provided nevertheless, that in all Cases in which Appeals shall have been permitted under the Authority of the said Orders, or shall hereafter be permitted under the Authority thereof, or of this Act, to be interposed after the ordinary Time or Times of appealing, as the same were established by Law previous to the said Orders, had been or shall be elapsed, and in which it shall appear to the Satisfaction of the Lords Commissioners of Appeals in Prize Causes, appointed or to be appointed, that Distribution of the Proceeds of the Prize to which the Appeal relates had been made before Publication of the said former Order, and Notice of an intended Application for an Appeal, under the Authority of the same, was duly given to the Captors, the said Captors shall not be compelled or compellable, by virtue of the said Orders or of this Act, to make any Compensation to the Claimants in case the Sentences or Decrees of Condemnation shall be reversed or varied; but it shall be competent to such Captors, in all such Cases respectively to plead and prove, by Affidavits or otherwise as shall be allowed by the Court, such Distribution, in bar of any Monition to bring in the Proceeds of the Prize, or of any other Proceeding which may be had to compel them to satisfy the Claimants after such Reversal or Variation of such Sentence or Decree; and such Proof being so made shall be and be allowed to be an effectual Bar accordingly.

Order in Council, dated *March* 30, 1798.

Proceedings under the said Orders upon Appeals from Sentences in the *West Indies*, or the *Bermuda* or *Bahama Islands*, to be valid; but in Appeals permitted under them, after the ordinary Times of appealing, where the Prizes have been distributed previous to Publication of former Order, &c. the Captors not compellable to make Compensation, &c.

II. And whereas it is found expedient that the Space of Twelve Months, being the Space of Time allowed by the Civil Law, and by the general Law of Nations for that Purpose, should be generally allowed for the Prosecution of Appeals in all Cases of Prize Causes; be it therefore further enacted, notwithstanding any Law to the contrary, That it shall and may be lawful in all Causes of Prize, where a Sentence

In Prize Causes Inhibition to prosecute Appeals may be taken out within 12 Months after Date of Decree:

or Decree has been given, or ſhall hereafter be given, to or for all Perſons intereſted, whether Parties or not in the Firſt Inſtance, and in whatever Court the Sentence or Decree has been given or ſhall be given, to take out an Inhibition and proſecute an Appeal within Twelve Calendar Months, to be computed from the Day of the Date of ſuch Sentence or Decree appealed from: Provided nevertheleſs, that in all Caſes where Sentences and Decrees have already been given or pronounced, and in which no Appeal having been interpoſed by any Perſon who was a Party in the Firſt Inſtance, within Nine Months from the Date of the Sentence or Decree, nor any Notice given of ſuch Appeal, a Diſtribution of the Proceeds had taken place, the Captors ſhall not be compelled or compellable to make Compenſation to the Claimants, in caſe the ſaid Sentences or Decrees of Condemnation ſhall be reverſed or varied, on the ſaid Captors giving Proof, to be allowed as aforeſaid, of the Diſtribution of the Proceeds having been made, which ſhall be an effectual Bar to the ſaid Claimants as herein-before enacted.

But where Decrees have been already given, and no Appeal interpoſed within Nine Months, &c. the Captors not compellable to make Compenſation, &c.

III. And whereas it is expedient that in Special Caſes the Time of appealing from ſuch Sentences or Decrees ſhould be further enlarged; be it therefore enacted and declared by the Authority aforeſaid, That His Majeſty, His Heirs and Succeſſors, by His or Their Order or Orders in Council, in ſuch Special Cauſes of Prize as in ſuch Order or Orders reſpectively ſhall be mentioned, may authorize, and ſhall have full Power to authorize, any Perſons intereſted, whether Parties or not Parties in the Firſt Inſtance, in ſuch Cauſes, and in whatever Court the Sentence or Decree ſhall have been given or pronounced before the paſſing of this Act, or ſhall hereafter be given or pronounced, to take out an Inhibition and proſecute an Appeal at any Time notwithſtanding ſuch Space of Twelve Months as aforeſaid ſhall have previouſly expired: Provided nevertheleſs, that in all Caſes in which His Majeſty, His Heirs or Succeſſors, ſhall, by ſuch Order, give ſuch Authority as aforeſaid, and in which it ſhall appear to the Satisfaction of the Lords Commiſſioners of Appeals in Prize Cauſes, that Diſtribution has been made of the Proceeds of the Prizes at or after the Time or Times when the Right of appealing would have been barred if no ſuch Order had been made, and before Notice of ſuch Order duly given to the Captors, the ſaid Captors duly conforming to the Regulations herein-after required, the ſame ſhall be an effectual Bar to their making Compenſation to the Claimants as herein-before enacted.

His Majeſty in Council may authorize Inhibition to proſecute Appeals to be taken out after Expiration of 12 Months; but if it ſhall appear that Diſtribution of Prizes had been made at or after the Time of appealing would have been barred, &c. the Captors not liable to make Compenſation.

IV. And be it further enacted, That in all ſuch Special Caſes in which His Majeſty, His Heirs and Succeſſors, ſhall authorize any Perſons intereſted to appeal from any Sentence or Decree after the Space of Twelve Months ſhall have elapſed from the Date of ſuch Sentence or Decree, and after a Diſtribution of the Proceeds has been made, the Captors, being required by the Claimants, ſhall deliver over, within a a reaſonable Time, a true Copy of the Account of Sales, and of all Proceedings had under the Authority of the Sentence or Decree of the Court below, to His Majeſty's Procurator General, who is hereby authorized and required to defend the ſaid Appeals in all ſuch Caſes, and in ſuch Manner as His Majeſty's Advocate General ſhall direct; and in caſe the Captors ſhall neglect or refuſe to deliver over ſuch Copy, within a reaſonable Time, as aforeſaid, or to obey ſuch further Order as the Lords

When His Majeſty ſhall ſo authorize Appeals, the Captors, on Requiſition of Claimants, to deliver Copies of Account of Sales, &c. to the Procurator General, who ſhall defend the Appeals, &c.

Captors neglecting to deliver ſuch Copies, or to

obey the Order of the Commiſſioners of Appeals, to forfeit the Benefit of this Act.

Lords Commiſſioners of Appeals in Prize Cauſes may deem neceſſary to make for the Furtherance of Juſtice, they ſhall forfeit all Claim to any Benefit or Diſcharge under the Proviſions of this Act, and be liable to be proceeded againſt in ſuch Manner as if the Appeal had been duly entered within Twelve Months from the Time of ſuch Sentence or Decree in the Court below.

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