ANNO QUADRAGESIMO PRIMO

GEORGII III. REGIS.

CAP. XCVI.

An Act for the better Regulation of His Majeſty's Prize Courts in the *Weſt Indies* and *America*, and for giving a more ſpeedy and effectual Execution to the Decrees of the Lords Commiſſioners of Appeals. [2d *July* 1801.]

Preamble.

WHEREAS Your Majeſty has been pleaſed, by a Letter of Lord *Grenville*, One of Your Majeſty's Principal Secretaries of State, bearing Date the Twenty-ſecond Day of *January* One thouſand eight hundred and one, to direct the Lords Commiſſioners of the Admiralty to revoke the Commiſſions of Prize heretofore granted to the Vice Admiralty Courts in the *Weſt Indies*, except at *Jamaica* and *Martinico*: And whereas it is fit and may tend to the due Adminiſtration of Juſtice, that Your Majeſty ſhould be enabled to make competent Proviſion for the ſeveral Judges of Vice Admiralty Courts in any Two of the Iſlands in the *Weſt Indies*, and at *Halifax* in *America*; and that the Proceedings of the ſaid Courts, and the Fees of the Judges and other Officers of the ſaid Courts ſhould be duly regulated; 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 and Succeſſors, by any Order in Council, to fix and aſcertain proper

His Majeſty may, by Order in Council, fix Salaries for Judges of the

Vice Admiralty Courts in the *Weſt Indies*, and at *Halifax* in *America*;

proper and adequate Salaries for the ſaid Judges of the Vice Admiralty Courts eſtabliſhed in any Two of the Iſlands in the *Weſt Indies*, and likewiſe at *Halifax* in *America*, not exceeding the Sum of Two thouſand Pounds *per Annum* for any One of ſuch Judges; and ſuch Salary ſhall be iſſued, payable, and paid out of the Conſolidated Fund of *Great Britain*.

and by Letters Patent may grant to any ſuch Judges, upon Reſignation, an Annuity payable out of the Conſolidated Fund.

II. And be it further enacted, That it ſhall be lawful for His Majeſty, by any Letters Patent under the Great Seal of *Great Britain*, to give and grant to any ſuch Judge upon his Reſignation of any ſuch Office, an Annuity for the Term of his Life, not exceeding One thouſand Pounds, to be iſſued and payable, and paid out of the Conſolidated Fund; and ſuch Annuity ſhall be charged and chargeable, and paid and payable in like Manner in every Reſpect, and under and ſubject to ſuch Rules, Regulations, Proviſions, Penalties, and Forfeitures as are contained in an Act paſſed in the Thirty-ninth Year of His preſent Majeſty, intituled, *An Act for the Augmentation of the Salaries of the Judges of the Courts in* Weſtminſter Hall, *and alſo of the Lords of Seſſion, Lords Commiſſioners of Juſticiary, and Barons of Exchequer in* Scotland, *and for enabling His Majeſty to grant Annuities to Perſons in certain Offices in the ſaid Courts of* Weſtminſter Hall *on their Reſignation of their reſpective Offices:* Provided always, That no ſuch Annuity granted to any ſuch Judge ſhall be valid, unleſs ſuch Judge ſhall have continued in One or more of the ſaid Offices for the Period of Six Years, or ſhall be afflicted with ſome permanent Infirmity, diſabling him from the due Execution of his Office, which ſhall be diſtinctly recited in the ſaid Grant.

No ſuch Annuity to be valid, unleſs the Judge ſhall have continued in Office for Six Years, or be unable to do the Duty.

His Majeſty may eſtabliſh Rules for the Courts, and regulate the Fees to be taken.

III. And be it further enacted, That it ſhall be lawful for His Majeſty, His Heirs and Succeſſors, to eſtabliſh Rules and Regulations for the ſaid Courts, and from Time to Time regulate the Fees to be taken by the ſaid Judges, and the other Officers of the ſaid Courts, for all Acts to be done therein, and to alter and amend ſuch Rules and Regulations, and make any new Table or Tables of Fees, as His ſaid Majeſty, by and with the Advice of His Council, ſhall deem fit.

The Profits of each Judge ſhall not exceed 2,000 *l. per Annum* over his Salary, and he ſhall keep an Account thereof, and tranſmit it annually to the Commiſſioners of the Navy.

IV. And be it further enacted, That the Profits and Emoluments of the ſaid Judges ſhall in no Caſe exceed the Sum of Two thouſand Pounds to each or any or either of the ſaid Judges in any One Year, and ſo in Proportion for any Part of a Year, over and above the Salary of ſuch Judge by this Act granted, and every ſuch Judge ſhall keep a juſt and true Account of the Fees and pecuniary Profits and Emoluments received by him as ſuch Judge in each Year, ending on the Firſt Day of *January* in each Year, and ſhall, as ſoon after the ſaid Firſt Day of *January* as the ſame can be done, in every Year tranſmit an Account thereof to the Commiſſioners of the Navy, and ſhall carry all Sum and Sums of Money exceeding the ſaid Sum of Two thouſand Pounds to the Account of the ſucceeding Year, or pay the ſame or any Part thereof to ſuch Perſon or Perſons, and in ſuch Manner as to the ſaid Commiſſioners of the Navy ſhall ſeem fit, and they ſhall for that Purpoſe direct.

The Courts may exerciſe over all Prizes, &c. the ſame Powers as if

V. And whereas it is expedient that the Powers of the ſaid Courts, and the Execution of their Proceſſes, ſhould be rendered more effectual and eaſy, be it therefore enacted, That each and every of the ſaid Courts, and

and the ſeveral and reſpective Judges and Officers thereof in any Two of the Iſlands in the *Weſt Indies* and at *Halifax*, ſhall have and may exerciſe over all Prizes carried into any of His Majeſty's Colonies in the *Weſt Indies*, including therein the *Bahama* and *Bermuda* Iſlands, and over all Perſons in any way concerned therein, and in all Matters and Things relating thereto, all the Powers and Authorities, and ſhall and may put in Force all the Regulations, Proviſions, Penalties, Forfeitures, Matters, and Things relating thereto, as if ſuch Prizes had been actually brought into any Port of the Iſland or Colony where ſuch Vice Admiralty Court ſhall be held; and as if the Perſons concerned therein were actually reſident within ſuch Iſland or Colony.

they had been brought into any Port of the Iſland or Colony where ſuch Courts are held.

VI. And be it further enacted, That it ſhall be lawful for the Judges and other Officers of the ſaid Courts to iſſue Commiſſions, Orders, Decrees, Attachments, and other Proceſſes, to be executed in any other of His Majeſty's Colonies or Territories in the *Weſt Indies* or *America*, including therein the *Bahamas* and *Bermuda* Iſlands, for the Examination of Witneſſes for the Appraiſement and Sale of captured Property, or for any other Purpoſe of legal Adjudication; and all ſuch Commiſſions, Orders, Decrees, Attachments, and Proceſſes, ſhall be valid and effectual, and ſhall be in full Force, and be put in Execution, in relation to all Matters and Things cognizable by ſuch Courts, in every Part of His Majeſty's Colonies, Plantations, and Territories in the *Weſt Indies* and *America*, including therein the ſaid Iſlands of *Bahama* and *Bermuda*, notwithſtanding any Law or Laws of any ſuch Colonies, Plantations, or Territories to the contrary thereof; and all Marſhals and Deputy Marſhals, or other Officers executing Proceſſes of any ſimilar Nature, or in Default of any ſuch being reſident in any Iſland or Colony, all Officers executing any legal Proceſſes, by whatever Name or Names any ſuch Officer ſhall be called, ſhall and are hereby required to execute the Proceſſes iſſuing from the ſaid Courts, and ſhall be liable to ſuch Fines, Penalties, Forfeitures, or Puniſhments, for any Contempt or any Neglect in executing thereof, as any Officer or Officers of ſuch or the like Deſcription are liable to for any Neglect, and as if ſuch Court was eſtabliſhed and held in the Iſland, Colony, or Territory within which the Functions of any ſuch Officers are to be exerciſed as aforeſaid.

The Courts may iſſue Commiſſions, &c. to be executed in any other of His Majeſty's Colonies or Territories in the *Weſt Indies* or *America*, etc. for any Purpoſe of legal Adjudication, and all Marſhals, &c. ſhall execute Proceſſes iſſuing from ſuch Courts.

VII. And whereas it is expedient that the Proceeds of Property captured and converted by Sale, ſhould be ſecured until final Adjudication; be it enacted, That in all Caſes where a Commiſſion of Appraiſement and Sale is granted by the Judge of the Vice Admiralty Court before final Sentence, the Proceeds of ſuch Sale ſhall not remain in the Hands of the Captors or their Agents, but ſhall be brought into the Regiſtry of the Court, and remain ſubject to the further Orders of the Court till final Sentence.

Where a Commiſſion of Appraiſement and Sale is granted before final Sentence, the Proceeds ſhall be brought into the Regiſtry of the Court.

VIII. And whereas Injury is frequently ſuſtained in the Sale of captured Property in remote Parts of His Majeſty's Dominions, where there are unſuitable Markets for ſuch Sales; be it therefore enacted, That in caſe of any Order for further Proof made by any Court of Vice Admiralty, and the Claimants thereof declining to take the Property whereon ſuch Queſtion ſhall ariſe upon Bail, it ſhall be lawful for the Court before which ſuch Queſtion ſhall be depending, with the Conſent of the Captors and Claimants,

If Claimants decline to take Property on Bail, the Court, with Conſent of the Captors and Claimants, may direct it to be ſent to

England for Sale; and if the Captors unreaſonably withhold their Conſent, they ſhall pay the Difference of the Value at the Time of Reſtoration, and of the Produce if it had been ſent to *England*.

ants, or their reſpective Agents, to direct ſuch Property to be ſent to *England*, and there to be ſold by Conſignees, to be named by ſuch Parties as aforeſaid, and the Proceeds of Sale to be forthwith depoſited in the Bank of *England*, in the Names of ſuch Conſignees, ſubject to the final Adjudication, the Expences of Freight, Inſurance, and other Charges attending the Tranſportation and Sale of the Property, to be a Charge thereon; and in caſe it ſhall appear to any ſuch Court that the Conſent of the Captors ſhall in any ſuch Caſe be unreaſonably withheld, the Captors ſhall (in caſe of Reſtitution) be adjudged and made anſwerable, and ſhall pay ſuch Sum as ſhall be adjudged in any ſuch Court to be equal to the Difference in Value of the Property at the Time of ſuch Reſtoration, and what would have been the Produce thereof if it had been ſent for Sale to *England*, ſuch Difference to be aſcertained in ſuch Courts by ſuch Ways and Means, and ſuch Evidence as to what ſuch Property would have ſold for in *Great Britain*, and as to the Charges to which the ſame would have been ſubject, as ſuch Court ſhall deem ſatisfactory for that Purpoſe.

At Requeſt of Appellants, the Court may direct the Property to be ſent to *England* for Sale, and the Proceeds to be depoſited in the Bank, or the Proceeds of Property ſold may be ſo ſent and depoſited; and if any Difficulty ariſe, the Captors or Claimants may apply by their Proctors to the High Court of Admiralty, or the Lords Commiſſioners of Appeal, for their Directions.

IX. And be it further enacted, That if on any final Sentence or Adjudication of any ſuch Court, an Appeal ſhall be duly entered, it ſhall be lawful for the Court from which ſuch Appeal ſhall be made, at the Requiſition of the Appellant, to direct the Property on which ſuch Sentence or Adjudication ſhall have taken place, to be ſent to *England* for Sale in like Manner as is herein-before directed, and the Proceeds to be depoſited in the Bank to abide the Deciſion of the Lords Commiſſioners of Appeal; or in caſe the Property ſhall have been converted by Sale, the Proceeds thereof ſhall be ſent and depoſited in like Manner; and in caſe any Queſtion or Difficulty ſhall ariſe reſpecting any ſuch Property or Proceeds ſent to *England*, either before or after any ſuch Appeal, at any Time after their Arrival in *England*, or reſpecting the Sale or Proceeds thereof, it ſhall be competent for either the Captors or Claimants thereof, or their reſpective Agents, upon Notice to the adverſe Parties, or their Agents, to apply by their Proctor or Proctors to the High Court of Admiralty of the United Kingdom of *Great Britain* and *Ireland*, if before the Appeal proſecuted, or afterwards to the Lords Commiſſioners of Appeal, for Directions in regard to the Sale or Management of ſuch Property or Proceeds, and the ſaid High Court of Admiralty or Lords Commiſſioners aforementioned reſpectively are hereby authorized to give ſuch Order and Direction therein as the Nature and Circumſtances of the Caſe may require, for the Security of the Property or Proceeds, or for the beneficial Employment of the ſaid Proceeds in Government Securities for the Benefit of the Parties who may ultimately be entitled, and to cauſe ſuch Order and Directions to be enforced and put in Execution, if the ſame ſhall be neceſſary, by ſuch and the like Ways and Means, and under and ſubject to ſuch Penalties, Forfeitures, Regulations, and Reſtrictions, as ſuch Court or Lords Commiſſioners reſpectively may uſe or exerciſe, in relation to any Property, or Perſon or Perſons, ſubject to the Juriſdiction or Controul of ſuch Court or Lords Commiſſioners reſpectively.

In Proceſſes of the Court of Appeal, Service upon His Majeſty's Proctor ſhall be deemed

X. And whereas great Inconveniencies have heretofore ariſen from Delays in ſerving the Proceſſes of the Court of Appeal for obtaining Appearances and other interlocutory Orders; be it therefore enacted, That in all Caſes of Captures by His Majeſty's Ships, a Service upon His Majeſty's Proctor ſhall be deemed an effectual Service upon the Commander

of

of the Ship making such Capture; and that upon the taking out of all Letters of Marque, the Owners of the Ships or Vessels in respect whereof such Letters of Marque shall be granted, shall nominate and register in the Court granting such Letter of Marque a Proctor exercent in the Court of Appeal in Prize Causes, with Power of Revocation and Substitution; and a Service of Process upon such Proctor shall be deemed an effectual Service upon the Commander, Owners, and Sureties of Privateers in all Cases where an Appeal has been declared in the Court below within Fourteen Days after Sentence; and in case any Privateer shall proceed to Adjudication against any Prize in any other Court than that from which the Letters of Marque shall have issued for such Privateer, it shall be necessary that a Proctor shall be registered as aforesaid, together with the Names of the Owners of and Sureties for the said Privateer, before the usual Monition is granted, upon which Proctor in like Manner the Service of the Process of the Court of Appeal shall be effectual: Provided nevertheless, That His Majesty's Proctor, or any Proctor nominated as aforesaid, shall not be answerable for any Damages arising to their Parties respectively, from no Appearance being given in their Behalf in the Court of Appeal, unless the Proctor so nominated shall have accepted such Nomination by a Writing under his Hand, and also unless the said Parties respectively shall have sufficiently instructed their said Proctors to appear and defend the Appeal.

Service upon the Captain of a King's Ship; and in the Court granting a Letter of Marque, the Owner of the Vessel shall nominate a Proctor, and Service upon him shall be deemed Service upon the Commander, &c.

His Majesty's Proctor, or a nominated Proctor, not answerable for Damages from no Appearance being given, unless instructed to defend Appeals.

XI. And be it further enacted, That in all Cases where no Appeal has been entered as aforesaid, a Service of the Process either upon the Commander of the King's Ship, or upon his registered Agent in this Kingdom, or upon His Majesty's Law Officer in the Court below, or in Cases of Captures made by Privateers upon the Commander of the Privateer, or upon either or any of the Owners, or upon either of the Sureties to the Letters of Marque, shall be deemed a sufficient Service upon the Parties.

What shall be deemed sufficient Service, where no Appeal has been entered as aforesaid.

XII. And be it further enacted, That in all Proceedings had upon Captures made by any Privateer, the Owners shall be deemed and considered Parties to all and every Part of such Proceedings, and the said Owners, and likewise the Sureties, shall be jointly and severally liable to all Orders and Decrees made therein and made upon them respectively, immediately after final Sentence, without further personal Service upon the Commander, or putting him in Contempt by Process of Contumacy.

In Proceedings upon Captures by Privateers the Owners to be considered Parties, and they and the Sureties liable to Decrees immediately after final Sentence.

XIII. Provided always, and be it further enacted, That nothing herein contained shall be construed to prevent any Claimant or Claimants in whose Favour a Sentence of Restitution shall have been passed, or shall be hereafter passed, from having the Property claimed by him delivered to him or Bail in the Manner specified and directed by an Act, passed in the Thirty-third Year of His present Majesty, intituled, *An Act for the Encouragement of Seamen, and for the better and more effectually manning His Majesty's Navy.*

Act not to prevent a Claimant from having the Property delivered to him as directed by 33 *Geo.* III, Cap. 66.

XIV. And whereas it is expedient that the most speedy and effectual Means shall be taken to enforce the Execution of the Orders and Decrees of the Lords Commissioners of Appeal, be it therefore enacted, That all Interlocutory Orders, Final Decrees, Attachments, or other Processes

Orders issued by the Lords Commissioners of Appeal to be executed in His Ma-

jeſty's Plantations, may be tranſmitted to either of the Vice Admiralty Courts.

Proceſſes iſſued by the Lords Commiſſioners of Appeal, to be executed in any of His Majeſty's Plantations, may be tranſmitted to either of the ſaid Vice Admiralty Courts in which the Cauſe originally depended; and in reſpect to Cauſes already depending or which may have depended in any other Vice Admiralty Court in the *Weſt Indies*, including therein the *Bahama* and *Bermuda* Iſlands, before its Functions in Matters of Prize ſhall have been revoked, then ſuch Order, Decree, Allotment, or other Proceſs may be ſent to either of the ſaid Vice Admiralty Courts, which the Lords Commiſſioners of Appeal ſhall direct, there to be regiſtered and carried into Execution by the ſaid Court; which Court, upon the ſame being duly complied with, ſhall take the ſame Meaſures as if the ſaid Order, Decree, Attachment, or other Proceſs, had originally iſſued from the ſaid Court.

Act not to reſtrain His Majeſty from granting Commiſſion of Prize to any other Courts, or from making further Rules with Advice of His Privy Council.

XV. Provided always, and be it further enacted, That nothing in this Act contained ſhall extend, or be conſtrued to extend, to reſtrain His Majeſty, His Heirs or Succeſſors, from iſſuing or granting any Commiſſion of Prize to any other Court or Courts, or from making ſuch further Rules or Directions relating to any Courts of Admiralty for the Adjudication and Condemnation of Prizes, as by His Majeſty, His Heirs and Succeſſors, with the Advice of His or their Privy Council, ſhall be thought neceſſary or proper.

Such Courts ſhall be ſubject to the ſame Rules and poſſeſs the ſame Powers, as provided by this Act.

XVI. Provided always, and be it further enacted, That in caſe His Majeſty ſhould be pleaſed to iſſue any Commiſſion of Prize to any other Vice Admiralty Court in the *Weſt Indies*, ſuch Court ſhall be ſubject to the ſame Regulations, and ſhall poſſeſs the ſame Authorities and Powers as are provided by this Act for the Vice Admiralty Courts in any Two of the Iſlands in the *Weſt Indies* and at *Halifax*.

No Judge to act as Agent for Prizes, or have any Intereſt in any Privateer, or be concerned in the Care of any Eſtates.

XVII. And be it further enacted, That no Perſon during the Time he ſhall hold the Office of Judge of any of the ſaid Courts, ſhall, either by himſelf or by any Perſon on his Behalf or for his Benefit, act as Agent for any Prizes that may be captured from the Enemy, or ſhall have any Share or Intereſt directly or indirectly in any Privateer or Letter of Marque, or ſhall be anywiſe concerned in the Care, Management, or Superintendance of any Eſtates in any Iſland in the *Weſt Indies* or on the Continent of *America*.

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