ANNO SEXTO

GEORGII IV. REGIS.

C A P. LXXXIII.

An Act to abolish the Sale of Offices in the Court of Common Pleas in *England*, to make Provision for the Lord Chief Justice of the said Court, and to grant an additional Annuity to the said Lord Chief Justice on Resignation of his Office.

[5th *July* 1825.]

WHEREAS the several Offices of Chief and Third Prothonotaries, Clerk of the King's Silver, Clerk of the Jurata, Clerk of the Essoigns, Clerk of the Warrants, Enrolments and Estreats, Exigenter, Clerk of the Supersedeas, Filacers for all the Counties in *England*, and Clerk of the Errors in the Exchequer Chamber, are appointed by the Lord Chief Justice of the Common Pleas, and are saleable by him, as and when the same from Time to Time become vacant: And whereas the Offices of Second Prothonotary and Clerk of the Juries are appointed by the said Lord Chief Justice, on the Nomination of the Custos Brevium, for which last-mentioned Appointment the said Lord Chief Justice has been deemed entitled to, and has always received, whenever such Appointments have been made, certain Fees: And whereas each of the Three Prothonotaries of the said Court has the Appointment of one Secondary: And whereas the said several Offices are held for the respective Lives of the Persons now holding the same, and the Emoluments thereof are derived entirely from the Fees payable by the Suitors of the same Court; and some of such Offices are and for many Years past have been executed by Deputy; and the Emoluments of some

others thereof which are executed in Person, are greater than the Nature and Duties thereof, considered apart from other Circumstances relating thereto, would require: And whereas it is expedient to abolish the Sale of all such of the said Offices as are now saleable, whereby a more equal Provision may be made for maintaining the Honour and Dignity of the Office of the Lord Chief Justice of the same Court, and a Fund may be hereafter raised which may be applied towards the Payment of the Salaries of the Chief Justice and other Judges of the same Court, in ease of the Public Revenue: And whereas the Duties of the First and Third Prothonotary might be well discharged by one Person, and the Duties of Secondary to the First Prothonotary and Secondary to the Third Prothonotary might also be discharged by one Person, and by thus reducing the Number of Officers, the Fund which might be hereafter raised for the Benefit of the Public may be considerably increased: 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 the said Offices of Chief and Third Prothonotaries, Clerk of the King's Silver, Clerk of the Jurata, Clerk of the Essoigns, Clerk of the Warrants, Enrolments and Estreats, Exigenter, Clerk of the Supersedeas, Filacers for all the Counties in *England*, and Clerk of the Errors in the Exchequer Chamber, shall be disposed of, and all Appointments to the said respective Offices, as they may respectively become vacant, shall be made according to the Directions of this Act, and not otherwise; and all and every the Persons to be so appointed to the said several Offices, shall continually execute the same in Person, and not by Deputy, unless for some reasonable Cause to be allowed, as hereinafter mentioned; and every such Officer and his Deputy, to be appointed according to the Directions of this Act, shall be deemed and taken to be a public accountable Officer, to all Intents and Purposes, and shall severally account for the Fees and Emoluments of his Office, according to the Directions of this Act.

Certain Offices to be no longer saleable; and, as they become vacant, future Appointments to be regulated by this Act.

Offices to be executed in Person, and not by Deputy, unless for reasonable Cause.

II. And be it further enacted, That all Appointments to the several Offices to be made by virtue of this Act shall be made by the Lord Chief Justice of the said Court for the Time being, by Warrant under his Hand and Seal, without any Fee, Gratuity, or Reward, to be directly or indirectly paid to or received for the same by the Lord Chief Justice or any Judge of the said Court; and every such Appointment, except the Appointment of the Filacers, shall be made, and shall be in such Warrant expressed to be made, during the good Behaviour of the Person appointed, and for so long Time only as the Person appointed shall execute the same in Person: Provided always, that no such Office shall be vacated by reason of the Officer's not executing his Office in Person, if he shall execute the same by some Deputy to be appointed by virtue of this Act, nor in Cases of occasional Illness, nor other like necessary Cause of Absence, not continuing more than Two Months at any one Time.

Appointments to be made by the Chief Justice, quam diu se bene gesserint.

III. And be it further enacted, That if any Person to be appointed by virtue of this Act shall demean himself in any Manner contrary

Remedy in case of Misbehaviour.

to the true Intent and Meaning hereof, or otherwise misbehave himself, it shall be lawful for the said Court to hear and decide upon such Misbehaviour, and also to hear and determine all Complaints that may be made against such Person, in a summary Way, and by Rule of the same Court to order Compensation to be made to any Person injured by such Misbehaviour; or to fine such Offender, or make void his Appointment, or punish the Offender by all or any of the Ways aforesaid, as to such Court in its Discretion shall seem fit.

How and for what Cause a Deputy may be appointed.

IV. Provided always, and be it further enacted, That in case any Officer to be appointed by virtue of this Act shall, by Ill-health or other Infirmity, become incapable of discharging the Duties of his said Office, or shall for any other reasonable Cause, to be allowed by the said Lord Chief Justice, be desirous of being relieved from the Discharge of the Duties thereof, either permanently or for a certain Time only, it shall and may be lawful for the said Lord Chief Justice to appoint some fit and proper Person to act as a Deputy of such Officer; the Cause of such Appointment being always distinctly mentioned and specified in the Warrant of such Appointment.

Salaries and Allowances to the Officers, how to be regulated.

V. And be it further enacted, That it shall and may be lawful for the Lord Chief Justice of the said Court, and the Lord High Treasurer, or any Three or more of the Commissioners of the Treasury for the Time being, and they are hereby required, by some Writing under their respective Hands, to ascertain for and allow to every Officer and Deputy to be appointed by virtue of this Act, for himself, his Clerks and Assistants, and the Expences of his Office, such Part or Parts of the Fees and Emoluments lawfully belonging to his Office, as to them shall seem reasonable, and from Time to Time to alter and vary the same as Occasion may require; and every Officer and Deputy to be so appointed shall demand and receive all and every the Fees and Emoluments lawfully belonging to his said Office, whether the same have been heretofore received by or deemed to belong to the principal Officer or his Deputy or Deputies, and no more or other Fees, Emoluments, or Perquisites whatsoever; and shall retain thereout for his own Use, and in case of a Deputy for the Use also of his Principal, such Part or Parts thereof and no more as shall and may have been from Time to Time so ascertained and allowed as aforesaid; and shall duly account for all Sums received and paid in Manner herein-after directed.

Officers to receive the accustomed Fees only;

to retain their Salaries;

and account for Surplus.

Officers to keep Books of Account;

VI. And be it further enacted, That every Officer and Deputy to be appointed by virtue of this Act shall keep one or more Book or Books, and shall cause to be duly and regularly entered therein all and every Sum and Sums of Money by him received and paid, and shall submit the same to the Inspection of the said Lord Chief Justice, and of the said Lord High Treasurer and Commissioners of the Treasury, whenever he shall be thereto required; and shall also, within One Month after the End of every Term, render a true and faithful Account in Writing (to be verified on Oath if required), to the Lord High Treasurer or Commissioners of the Treasury for the Time

and within a Month after every Term render an Account to the Treasury

Time being, of all Sums of Money by him received and retained or paid, up to the last Day inclusive of the Term next immediately preceding the rendering of such Account; and shall also within the same Period pay over the Balance of such Account (if any) into the Receipt of His Majesty's Exchequer: Provided always, that if upon the Examination of any such Account, it shall appear to the said Lord High Treasurer or Commissioners aforesaid, that any unreasonable or improper Charge or Deduction has been made therein, the same shall be disallowed by the Treasurer or Commissioners; and the Amount of all and every Sum of Money so disallowed shall, within Ten Days after such Disallowance thereof shall be notified to such Officer or Deputy, be paid by him into the Receipt of His Majesty's Exchequer; and the said Treasurers or Commissioners shall cause Copies of all such Accounts to be laid before each House of Parliament at the Commencement of the Session of Parliament next after the rendering thereof; and all Sums so paid into the Receipt of the Exchequer shall be carried to the Credit of the Consolidated Fund, a separate Account being kept thereof: Provided always, that no Lands, Tenements, or Hereditaments of any Officer or Person who, by virtue of this Act, may be required to pay any Sum or Sums of Money which would otherwise be payable to the said Lord Chief Justice, shall by reason thereof be charged with any such Sum or Sums of Money, or be deemed subject or liable to the Payment thereof, or to answer or make good the same.

Disallowances may be made in Accounts.

Accounts to be laid before Parliament.

VII. And be it further enacted, That whenever any Deputy shall be appointed, and any Portion of the Fees and Emoluments of Office shall be directed to be allowed and paid to the principal Officer in pursuance of this Act, such Portion shall be duly paid over to the Principal before the rendering of the Account hereby required, next after the Time when such Portion shall become payable, and a proper Receipt for the same shall be exhibited at the Time of rendering such Account; and no principal Officer shall be deemed answerable or accountable for any Sum of Money received by any such Deputy as aforesaid.

Where a Deputy is allowed, the Principal is to receive his authorized Portion of the Fees.

VIII. And whereas it will be necessary to make due Provision for the Maintenance for the Honour and Dignity of the Office of Lord Chief Justice of the said Court, in lieu of the Fees and valuable Patronage hitherto enjoyed by the Person from Time to Time filling the said Office, and which will be taken away by this Act; and it is further expedient that the Lord Chief Justice of the said Court should receive a Salary, to be fixed by Parliament, in lieu of all pecuniary Fees and Emoluments now received by him; be it therefore enacted, That the annual Salary of the Lord Chief Justice of the said Court for the Time being, shall be the Sum of Eight thousand Pounds, to be computed and commence, in the Case of the present Lord Chief Justice, from the beginning of the Quarter current at the Time of the passing of this Act; and to commence and be computed, in the Case of every succeeding Lord Chief Justice, from the Death or Resignation of his immediate Predecessor, in like Manner as if his Patent or Appointment bore Date the Day next subsequent to the Day of the Death or Resignation of his Predecessor; and that there shall be issued

Salary to the Lord Chief Justice 8,000*l.*, per Annum, to be paid quarterly.

issued and paid and payable, out of and charged and chargeable upon the Consolidated Fund (after paying and reserving sufficient to pay all such Sum and Sums of Money as have been directed by any former Act of Parliament to be paid out of the same, but with Preference to all other Payments which shall or may hereafter be charged upon or payable out of the said Fund), to the present Lord Chief Justice of the said Court, and to his Successors, as an Augmentation of his and their Salary, and in lieu of all Fees and pecuniary Profits belonging to the said Office, so much Money as will make the Salary usually received by the Lord Chief Justice of the said Court for the Time being, from the Civil List, after deducting from the Amount of such last-mentioned Salary all Land Tax, Pension Duty, and other Duties and Fees charged upon the same or upon the said Lord Chief Justice in respect of his Office, and also all Sums of Money paid by the said Lord Chief Justice for Rolls, Books, or Dockets provided for the Use of the Officers of the said Court, or of the Suitors thereof, according to ancient and present Usage, the annual Sum of Eight thousand Pounds herein-before mentioned; which said Sums, to be issued in pursuance of this Act, shall from Time to Time henceforth be paid and payable quarterly, free and clear from all Taxes, Fees, and Deductions whatsoever, on the Fifth Day of *January*, the Fifth Day of *April*, the Fifth Day of *July*, and the Tenth Day of *October* in each Year, by even and equal Portions, together with a rateable Proportion of the Quarter current at the Time of the Death or Resignation of any such Lord Chief Justice, up and home to the Day of his Death or Resignation; the First Payment thereof to be made on such of the said Days as shall first happen next after the passing of this Act.

His Majesty may grant to any Person who may have executed the Office of Chief Justice of the Common Pleas an Annuity of 450*l.* in addition to the Sum allowed under 39 G. 3. c. 110. and 53 G. 3. c. 153.

IX. And be it further enacted, That it shall be lawful for His Majesty, His Heirs and Successors, by any Letters Patent under the Great Seal of *Great Britain*, to give and grant unto any Person who may or shall have executed the Office of Chief Justice of the Court of Common Pleas, an Annuity or yearly Sum of Money not exceeding the Sum of Four hundred and fifty Pounds, and the said Annuity shall be in Addition to and in Augmentation of the respective Annuities or yearly Sums allowed to be given and granted to such Chief Justice, under the Provisions of an Act of the Thirty-ninth Year of the Reign of His late Majesty, and under an Act of the Fifty-third Year of the Reign of His late Majesty, for enabling His Majesty to grant additional Annuities to the Judges of the Courts in *Westminster Hall*, on their Resignation of their Offices, and in like Manner to commence from and after the Period when the Person to whom any such Annuity or yearly Sum of Money shall be granted as aforesaid, shall have resigned his said Office, and to continue for and during the natural Life of the Person to whom the same shall be granted as aforesaid; and every such Annuity or yearly Sum of Money shall be issued and payable out of and charged and chargeable upon the Consolidated Fund, next in order of Payment to, and after paying or reserving sufficient to pay, all such Sum or Sums of Money as have been directed by any former Act or Acts of Parliament, and as by this Act are herein-before directed to be paid out of the same, but with Preference to all other Payments whatsoever, and shall be payable and paid quarterly, free and clear from all Taxes and Deductions whatsoever,

whatsoever, by even and equal Portions, at the like Periods and together with and in the same Manner as the Annuities and yearly Sums which may be given and granted under the said recited Acts, and under and subject to the like Rules, Regulations, and Restrictions (so far as the same are applicable), as are contained and prescribed in the said Act of the Thirty-ninth Year of His said late Majesty's Reign, in relation to the Annuities or yearly Sums of Money therein allowed to be given and granted.

Fees heretofore paid to the Lord Chief Justice, after passing this Act, to be paid into the Exchequer.

X. And be it further enacted, That all and every Officers and Persons who now receive for or pay to the Lord Chief Justice of the said Court for the Time being, any Fees, Portions of Fees, or other Sum or Sums of Money whatsoever, in respect of his Office, shall, from and after the passing of this Act, pay all such Fees, Portions of Fees (except Homage Fees), and Sums of Money, into His Majesty's Exchequer, at such Times and Seasons as the same have been heretofore usually paid to the Lord Chief Justice, and with such Deductions and Allowances only as have been heretofore usually made and allowed.

Homage Fees how to be disposed of.

XI. And be it further enacted, That the several Officers of the Court who have been accustomed to pay the Fees called Homage Fees to the Lord Chief Justice, shall, on or before the First Day of *Hilary* Term in every Year respectively, pay such Fees to the First Clerk of the said Lord Chief Justice, which Clerk shall, within One Week from the First Day of *Hilary* Term in every Year, account for and pay all such Fees as shall be received by him from the said Officers aforesaid, into His Majesty's Exchequer.

Offices of Chief and Third Prothonotary to be vested in the same Person.

XII. And be it further enacted, That for the Purpose of uniting the Two Offices of Chief and Third Prothonotary in the same Officer, whoever shall be appointed to the First of those Offices that shall become vacant after the passing of this Act shall, on the other of the said Offices becoming vacant, take upon himself and perform the Duties of the other of the said Offices, and shall receive the Fees accruing in respect of the said last-mentioned Office, and shall retain, out of the Fees of the Office last becoming vacant, so much as the Lord Chief Justice of the said Court, and the Lord High Treasurer, or any Three or more of the Commissioners of the Treasury for the Time being, shall think a reasonable Compensation for his additional Trouble, and shall account for and pay the Residue of such Fees into His Majesty's Exchequer, on the First Day of every Term; and the said Offices of Chief and Third Prothonotary shall, after such Union as aforesaid, be always executed by One Officer, who shall be called the Chief Prothonotary of the Court of Common Pleas, and who shall receive the Fees now payable in respect of the Offices of Chief and Third Prothonotary, and account for the same in such Manner as may be directed by the Lord High Treasurer or Commissioners of the Treasury for the Time being.

Secondary to Chief Prothonotary to be appointed by Lord Chief Justice.

XIII. And be it further enacted, That no Person who shall hereafter be appointed to the Office of Chief or Third Prothonotary, or shall hold the said Two Offices when united, shall appoint a Secondary,

but the Secondary of such Prothonotary shall be appointed by the Lord Chief Justice of the said Court of Common Pleas; and all Secondaries so appointed shall hold their Offices during their good Behaviour, and shall receive such a Proportion of the accustomed Fees of the said Office as the Lord Chief Justice of the said Court, and the Lord High Treasurer, or any Three or more of the Commissioners of the Treasury for the Time being, shall think reasonable, and shall account for and pay the Residue into His Majesty's Exchequer on the First Day of every Term.

Secondary first appointed, in vacancy of the other, to perform the Duties, and to receive Compensation.

XIV. And be it further enacted, That the Person who shall first be appointed Secondary under the Provisions of this Act shall, when the Office of Secondary to the other Prothonotary appointed by virtue of this Act shall become vacant, take upon himself and perform the Duties of both of the said Secondaries, and receive the Fees, and retain out of the same so much as the said Lord Chief Justice of the said Court, and the Lord High Treasurer, or any Three or more of the Commissioners of the Treasury for the Time being, shall think a reasonable Compensation for his additional Trouble, and shall account for and pay the Residue of such Fees into His Majesty's Exchequer on the First Day of every Term.

Filacers to be appointed during Pleasure of Lord Chief Justice.

XV. And whereas the Offices of Filacers of all the Counties in *England* would be executed better and at less Expence by One Person; and as such Offices are now holden by many different Persons, and the whole of such Offices are not likely soon to become vacant, that they may, when the present Interests in them shall expire, be all given to some one fit and proper Person, be it enacted, That when the Office of Filacer of any County or Counties shall become vacant, the Person to be appointed to discharge the Duties of such Office shall only receive an Appointment during the Pleasure of the Lord Chief Justice; and that when all the present Interests shall have vacated those Offices by Death or otherwise, the Lord Chief Justice of the Court of Common Pleas shall revoke the Appointments made during Pleasure, and appoint some one fit and proper Person to hold the united Office of Filacer of all the Counties of *England*, during his good Behaviour in the said Office.

Chief or Third Prothonotary resigning, shall receive from the Person holding the Office an annual Sum by Quarterly Payments.

XVI. And be it further enacted, That if either of the Persons who now hold the Office of Chief or Third Prothonotary shall, after the passing of this Act, be desirous of resigning his or their Office or Offices, or either of the Persons who now hold the Office of Secondary to the Chief or Third Prothonotary, or shall hereafter be appointed to the Office of Secondary by either of the Persons now holding the Office of Chief or Third Prothonotary, shall, after the Death or Resignation of the Prothonotary to whom such Secondary now belongs, or by whom he shall be hereafter appointed, be desirous of resigning his or their Office or Offices, it shall and may be lawful for the Lord Chief Justice of the said Court, by Order under his Hand and Seal, to direct that any Person holding either of the Offices so resigned, during the Life of the Person resigning such Office, shall pay to such last-mentioned Person such annual Sum by quarterly Payments, and a proportionate Sum for the Time that shall intervene between

between the last Quarter Day and the Day of the Death of such last-mentioned Person, as the said Lord Chief Justice shall, under all the Circumstances of the respective Cases, think proper; and all Orders of any Chief Justice for the Payment of Money to such retired Prothonotaries or Secondaries, shall be made Rules of the Court of Common Pleas; which Court may enforce the Payment of any Money due to any such retired Prothonotary or Secondary, if such Money shall remain unpaid for the Space of One Month after the same shall be payable, by Attachment.

Prothonotary not accountable to the Crown for Fees, while liable to Payment to his Predecessors.

XVII. And be it further enacted, That no Person who shall be appointed either a Prothonotary or Secondary, in consequence of the Resignation of either of the present Chief or Third Prothonotaries, or of their present Secondaries, or of any Secondary appointed by the present Chief or Third Prothonotaries, shall be accountable to the Crown for any of the Fees of their Offices, whilst such Prothonotaries or Secondaries, so appointed as aforesaid, are liable to pay the Sums ordered to be paid to their respective Predecessors under the Directions of this Act.

Fees to be paid into Exchequer.

XVIII. And be it further enacted, That upon every Appointment to the Office of Second Prothonotary hereafter to be made, the Fees which have been heretofore paid to the Lord Chief Justice and other Judges of the said Court of Common Pleas, on the Appointment of a Second Prothonotary, shall, before any such Appointment shall be made, be paid, by the Person to be appointed to such Office, into His Majesty's Exchequer for the Use of His Majesty.

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