


ANNO PRIMO

# GULIELMI IV. REGIS.

**********************************************************

## CAP. LVIII.

## An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law. [23d *July* 1830.]

WHEREAS it may be necessary for the better Administration of Justice that Amendments and Alterations should be made in the Process, Practice, Pleadings, and other Proceedings of His Majesty's Superior Courts of Common Law in *England* and *Wales*, or that the Offices belonging to the said Courts should be subjected to new Regulations, whereby the Amount of Fees and Emoluments which some of the Officers are or may be entitled to demand and receive in respect of the Duties of their Offices may be diminished or wholly taken away, and the Amount of Fees and Emoluments which others are or may be entitled so to demand and receive increased: And whereas it is fit that Compensation should be made for any such Loss, and that the Public should have the Benefit of any such Increase of Fees and Emoluments: 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, except as herein-after mentioned, every Person who on the Twenty-fourth Day of *May* One thousand eight hundred and thirty shall have held any Office in or belonging to any of the said Courts, in Fee, or for any Term either of Life or Years, or who shall then have been appointed to any other Office or Employment in or belonging to any of

Persons holding Offices in the Superior Courts shall render to the Commissioners under this Act an Ac-

count of their Receipts for the last Ten Years.

of the said Courts, by virtue of any Right of Appointment heretofore exercised by any of the Judges of His Majesty's Courts of Record at *Westminster*, and every Cursitor of the Court of Chancery, and every Person holding any Office connected with the passing of Fines and Recoveries, who shall have been appointed on or before the said Twenty-fourth Day of *May*, shall forthwith, after the passing of this Act, make or cause to be made out, and render to the Commissioners to be appointed by virtue of this Act as herein-after mentioned, an Account in Writing, in such Form and with such Particulars of Receipt and otherwise as the said Commissioners shall require, of all such lawful Fees and Emoluments as aforesaid which shall have become due in respect of every such Office or Employment as aforesaid, and of all Disbursements and Allowances made thereout, and Charges affecting the same, in each of the Ten Years next preceding the said Twenty-fourth Day of *May* One thousand eight hundred and thirty.

Officers entitled to and who claimed Compensation under 6 G. 4. c. 96. to render an Account for Ten Years before the passing of that Act.

II. Provided always, and be it further enacted, That every Officer who claimed and was entitled to Compensation in respect of any Fees or Emoluments under the Provisions of an Act passed in the Sixth Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act for preventing frivolous Writs of Error*, shall forthwith after the passing of this Act make out and render to the Commissioners to be appointed by virtue of this Act such Account in Writing as herein-before directed, so far as regards such Fees and Emoluments, in respect of the Ten Years mentioned in the said recited Act, in lieu of the Ten Years above mentioned; and that so much of the said recited Act as relates to the inquiring and ascertaining and certifying and paying the Amount of the Diminution or Excess in the same Act mentioned shall, from and after the last Day of *Trinity* Term One thousand eight hundred and thirty, cease and be of no Effect, except so far as regards the Compensation due to such Persons under the said recited Act up to the said last Day of *Trinity* Term One thousand eight hundred and thirty.

If an Account cannot be rendered, the Reason to be stated.

III. And be it further enacted, That in case any Person holding any such Office or Employment as aforesaid shall not be able to make or cause to be made out any such Account as aforesaid for every one of the Years in respect of which the same is to be so rendered, he shall specify in the Account which he shall render the Reason why he is not able to render an Account for any such Year or Years as may be omitted.

Commissioners may examine the Legality, &c. of the Fees upon Oath.

IV. And be it further enacted, That the said Commissioners shall be authorized to inquire into and examine as well the Legality as the Amount of the Fees and Emoluments contained in any such Account as aforesaid, and of all Disbursements and Allowances made in respect thereof, and of all Charges affecting the same; and to require Proof to be made, upon Oath, either personally or in Writing, of any Matter into which such Commissioners may think it necessary to inquire; which Oath may be administered either by such Commissioners, or any Three of them, or by a Judge or Commissioner of any of the said Courts.



V. And

Commissioners shall ascertain the Value of all such Offices according to an Average of Ten Years;

V. And be it further enacted, That the said Commissioners shall ascertain the gross and net annual Value, according to a fair Average of the said Ten Years as aforesaid, of the lawful Fees and Emoluments of all such Offices and Employments as aforesaid; and in every Case wherein it shall happen that the Fees and Emoluments relating to any particular Year or Years shall have been omitted by any Officer in the Account rendered to the said Commissioners, and they shall be satisfied with the Reason given for such Omission, the said Commissioners shall estimate the gross and net annual Value of the Office or Employment of such Officer according to the best of their Judgment; and in order to assist them in forming a Judgment therein, they shall have regard to the Amount of Fees and Emoluments which in the Year or Years omitted have been received by other Officers, the Fees and Emoluments of whose Offices or Employments may, in the Opinion of the said Commissioners, afford a fair Ground of Comparison.

and certify the same to the Treasury.

VI. And be it further enacted, That when the said Commissioners shall have ascertained to their Satisfaction the gross and net annual Value of the Fees and Emoluments of such Offices and Employments, or any of them, computed as aforesaid, together with the Particulars of the Disbursements, Allowances, and Charges constituting the Difference between such gross and net annual Value, they shall from Time to Time certify the same under their Hands to the Lord High Treasurer or Commissioners of His Majesty's Treasury for the Time being, who shall lay Copies of every Certificate of the said Commissioners before both Houses of Parliament.

The Fees to be paid until altered.

VII. And be it further enacted, That, until otherwise directed by lawful Authority, all Fees and Emoluments that now are or may be legally received in respect of any such Offices or Employments shall continue to be received, and shall be accounted for in the Manner herein-after mentioned.

Officers to render an Account of their Fees in future to the Treasury.

VIII. And be it further enacted, That every Person who on the Twenty-fourth Day of *May* One thousand eight hundred and thirty shall have held any such Office or Employment as aforesaid, and the Heirs, Executors, or Administrators of every such Person having an Interest in such Office, in Fee, or for any Term of Life or Years, shall, during his or their Continuance or Interest in such Office or Employment, render to the Lord High Treasurer or Commissioners of His Majesty's Treasury for the Time being, upon Oath, to be sworn before a Judge of one of the said Courts, or a Commissioner duly authorized to take Affidavits therein, a true Account in Writing of the gross and net Amount of all such Fees and Emoluments as aforesaid, which shall have become due on account of such Office or Employment, specifying the Particulars of the Disbursements, Allowances, and Charges constituting the Difference between such gross and net Amounts, at and for such Time or Times, in such Form, and with such further Particulars of Receipt or otherwise, as the Commissioners to be appointed (by virtue of this Act) shall fix.

IX. And

Manner of Proceeding if Account is unsatisfactory.

IX. And be it further enacted, That in case the said Lord High Treasurer or Commissioners of His Majesty's Treasury for the Time being, or any Three or more of them, shall be dissatisfied with any Account to be rendered to them as aforesaid, it shall and may be lawful for him or them to refer the same to any One or more of the Chief Justices, Chief Baron, or Judges of any of His Majesty's Superior Courts at *Westminster*, or to any One or more of the Masters of the High Court of Chancery, who shall thereupon, by such Ways and Means and by the Examination of such Persons as he or they shall think fit, and on Oath, if he or they shall think an Oath necessary to be administered, in manner aforesaid, inquire into and investigate the said Accounts, or any Item therein, and all or any of the Disbursements, Allowances, or Charges therein contained, and make such Allowances and Disallowances therein as he or they shall think just and reasonable; and shall finally settle and certify in Writing the net Amount of the Fees and Emoluments to which such Account relates.

If the Fees received shall exceed the certified Value of the Office, the Surplus shall be paid into the Exchequer to the Consolidated Fund.

X. And be it further enacted, That in case the net Amount of such Fees and Emoluments which shall have become due to any Person, who, on the said Twenty-fourth Day of *May* One thousand eight hundred and thirty, shall have held any such Office or Employment as aforesaid, shall exceed the net annual Value thereof which shall have been certified as aforesaid, the Surplus shall, within Seven Days after the rendering of such Account as aforesaid, be paid into the Receipt of the Exchequer, to the Credit of and as Part of the Consolidated Fund of the United Kingdom; and if Default shall be made in the Payment of any such Surplus as aforesaid into the Receipt of the Exchequer, to the Credit of the Consolidated Fund, the Amount thereof shall be and be deemed a Specialty Debt due to His Majesty; and the Lord High Treasurer or any Three of the Commissioners of His Majesty's Treasury for the Time being shall or may from Time to Time, by an Order under his or their Hands, appoint and authorize such Person as he or they shall think proper to receive all the Fees and Emoluments of the said Office or Employment in respect of which such Surplus is due; and every such Person shall accordingly have and is hereby invested with full Power to receive and compel Payment of such Fees and Emoluments, until such Surplus, with Interest thereon, and all Costs and Expences occasioned by the Nonpayment thereof, are satisfied; and the Monies so to be received shall be applied in Payment of the same accordingly; and if any Surplus shall remain in hand after making all such Payments, the same shall be paid to the Person entitled to such Office or Employment: Provided always, that every such Officer shall and may retain, out of the Surplus so to be paid by him into the Receipt of the Exchequer, so much Money as the Lord High Treasurer or any Three of the Commissioners of His Majesty's Treasury for the Time being, and the Lord Chief Justice or Chief Baron of the Court to which the Office or Employment of such Officer may belong, shall, by Writing under their Hands, authorize him to retain, as a reasonable Compensation for his additional Trouble in respect of the Increase in the Business of his said Office or Employment.

Proceedings against Defaulters.

XI. And

XI. And be it further enacted, That in case the net Amount of such Fees and Emoluments which shall become due to any Person, who, on the said Twenty-fourth Day of *May* One thousand eight hundred and thirty, shall have held any such Office or Employment as aforesaid, shall fall short of the net annual Value thereof which shall have been certified as aforesaid, every such Person, his Heirs, Executors, or Administrators, having an Interest in such Office or Employment, in Fee, or for any Term either of Life or Years, shall, during his or their Continuance or Interest in such Office or Employment, be entitled to receive from the Lord High Treasurer or Commissioners of His Majesty's Treasury, within One Calendar Month next after the rendering of such Account as aforesaid, the full Amount of the Difference between the net Sum which shall have so become due and such certified Value; and the Amount so to be paid shall be charged upon and paid out of the Consolidated Fund of the United Kingdom, without any Fee or Deduction whatsoever; and every Person, who, on the said Twenty-fourth Day of *May* One thousand eight hundred and thirty, shall have been appointed to any Office or Employment by any Judge as aforesaid, shall, during the Continuance in Office of the Person so appointed, under and by virtue of that Appointment, be entitled in like Manner to receive such Difference.

If the Receipts fall short of the certified Value, the Difference shall be paid to the Officers out of the Consolidated Fund.

XII. Provided always, and be it enacted, That in case any Person entitled to receive or required to pay over any Sum of Money under the Provisions of this Act shall die or resign, or be dismissed from his Office or Employment, before the Termination of any Year, the Executors or Administrators of the Person so dying, or the Person himself so resigning or dismissed, shall render such Account as aforesaid for such Part of the Year during which the Person so dying or resigning or dismissed shall have held such Office or Employment, and shall be entitled to receive or required to pay over an Amount proportioned to that Part of the Year during which such Person shall have held the same.

Provision for the Case of an Officer dying, &c. before the End of the Year.

XIII. Provided also, and be it enacted, That if any Person authorized to make an Appointment to any Office or Employment as aforesaid shall, after the Twenty-fourth Day of *May* aforesaid, have appointed, or shall hereafter appoint, any other Person or Persons, in addition to the Person or Persons who held such last-mentioned Office or Employment on that Day, to execute the Duties of such last-mentioned Office or Employment, all the Persons appointed to and executing the Duties of such last-mentioned Office or Employment together shall be entitled to receive the Difference between the net Amount of the Fees and Emoluments received by virtue of that Office or Employment and such net certified Value as aforesaid, and shall account for such Fees and Emoluments, and pay over such Surplus as aforesaid, in like Manner as if such Office or Employment had continued to be held by the same Person or Persons who held the same on the said Twenty-fourth Day of *May*, and no Person appointed in addition as aforesaid shall be entitled to receive any more than his rateable Part of such Difference.

If Addition is made to the Number of Persons executing an Office, the whole Number to be entitled only to the same Amount of Fees or Compensation as those before appointed.

No Persons hereafter appointed to any Office shall be entitled to claim Compensation.

XIV. And be it further enacted, That no Person, who, after the said Twenty-fourth Day of *May* One thousand eight hundred and thirty, shall be appointed to any such Office or Employment as aforesaid, shall, nor shall any Person who may appear to the Satisfaction of the Commissioners to be appointed by virtue of this Act to have accepted Office upon Condition of relinquishing any Claim to Compensation in case of its Abolition, be deemed entitled to prefer any Claim to Compensation in respect of any Alteration of any kind whatsoever, which shall be made by lawful Authority, in the Constitution, Process, Practice, Pleadings, or other Proceedings of any of the said Courts, or in the Constitution, Duties, or Emoluments of any of the said Offices or Employments, by such Authority as aforesaid.

This Act not to prevent the Dismissal of any Officer.

XV. Provided always, and be it enacted, That nothing herein contained shall be construed to prevent any Person from being dismissed from any Office or Employment which he may have held on the said Twenty-fourth Day of *May* One thousand eight hundred and thirty, in like Manner as he might have been dismissed therefrom if this Act had not been made, or to give him any greater or other Interest in such Office or Employment than he might have lawfully claimed or exercised if this Act had not been made.

Provision for Payment of Compensation in the Event of any Offices being abolished.

XVI. Provided also, and be it enacted, That if any such Office or Employment as aforesaid shall be abolished by lawful Authority, every Person, his Heirs, Executors, or Administrators, who under the Provisions of this Act would have been entitled to receive the Difference between the net Amount of the Fees and Emoluments which would have become due and the certified Value of such Office or Employment, in case the said Office or Employment were not abolished, shall be entitled to receive, during all the Time for which such Person was entitled to hold the Office or Employment so abolished, such annual Sum as the Lord High Treasurer or any Three of the Commissioners of His Majesty's Treasury for the Time being, and the Lord Chief Justice or Lord Chief Baron of the Court to which such Office or Employment may belong, shall fix and appoint, as a full and fair Compensation for the Loss of such Office or Employment, not exceeding in any Case the Amount of such certified Value, and not being less in any Case than Three Fourth Parts thereof; and every Person, who under the said Provisions would be entitled to receive such Difference during the joint Continuance in Office of himself and the Person by whom he was appointed to any such Office or Employment, shall be entitled to receive such Sum so to be fixed and appointed as aforesaid by the Lord High Treasurer or any Three of the Commissioners of His Majesty's Treasury for the Time being, and the Lord Chief Justice or Lord Chief Baron of the Court to which such Office or Employment shall belong, during his natural Life, if the Person appointing him had such an Interest in his Office as would have so long continued, otherwise during such Period only as his Interest would have continued.

Power for the Treasury to purchase

XVII. And be it further enacted, That it shall be lawful for the Lord High Treasurer or Commissioners of His Majesty's Treasury

for the Time being, or any Three or more of them, to agree with any Person or Persons who on the said Twenty-fourth Day of *May* One thousand eight hundred and thirty shall have held any such Office or Employment, in Fee, or for Life or Term of Years, or otherwise, for the absolute Purchase of such Office or Employment for any Sum of Money, which Sum of Money shall be paid out of the Consolidated Fund of the United Kingdom; and that from and after such Purchase and Payment all Fees and Emoluments which shall become due in respect of any such Office or Employment as shall be so purchased, and shall not have been abolished, shall be received by such Person or Persons as the Lord High Treasurer or any Three of the Commissioners of His Majesty's Treasury shall from Time to Time appoint by Writing under their Hands, and shall be paid into the Receipt of the Exchequer, to the Credit of and as Part of the Consolidated Fund of the United Kingdom.

Offices in Fee or Offices abolished.

XVIII. And be it further enacted, That nothing in this Act contained shall extend to require the Render of any Account of His Majesty's Judges of the Courts of Record at *Westminster* other than such as is now required by Law.

No new Account required from the Judges.

XIX. And whereas, in case of future Appointments to any of the Offices or Employments, of which an Account is required by this Act to be rendered, the Fees and Emoluments payable in respect of the Duties of such Offices or Employments may exceed the Amount of a reasonable Remuneration to the Officer holding the same, and it is therefore expedient to provide a Power for reducing the same; be it enacted, That it shall be lawful for the Lord High Treasurer or the Commissioners of His Majesty's Treasury for the Time being, or any Three or more of them, when and as often as Occasion may be or require, to reduce, so far as may appear reasonable, the Amount of the Fees and Emoluments to be thereafter allowed to any Officer who shall after the passing of this Act be appointed to any Office or Employment as to which an Account is required by this Act to be rendered as aforesaid, and to direct that the Surplus of the Fees and Emoluments to be received by him shall, after deducting such Remuneration as aforesaid, be paid into the Receipt of the Exchequer, to the Credit of and as Part of the Consolidated Fund of the United Kingdom: Provided always, that nothing herein contained shall affect any Right which may be vested in or exercised by the said Courts, or any of them, or any of the Judges or Officers thereof, of appointing Persons to Offices or Employments in the same, or of regulating and controlling the Manner in which the Duties of any such Offices or Employments shall be performed.

Amount of Fees, &c. may be reduced, and Surplus paid into Treasury.

XX. Provided always, and be it further enacted, That no future Appointment of any Person to any Office or Employment, whereof an Account is by this Act required to be rendered, shall be valid, so as to entitle such Person to the Fees or Emoluments thereof, until such Person shall have given Notice in Writing of such his Appointment to the Lord High Treasurer or to the Commissioners of His Majesty's Treasury for the Time being; and that until such Notice shall have

As to future Appointments to Offices whereof an Account is hereby required.

have been given, all Fees or Emoluments to be received by virtue of such Office or Employment shall be accounted for to the Lord High Treasurer or to the Commissioners of His Majesty's Treasury for the Time being, and shall be paid into the Receipt of the Exchequer as aforesaid.

No Addition to be made in Offices without Consent of Treasury.

XXI. And be it further enacted, That it shall not be lawful for any Officer required to render an Account of any Fees or Emoluments by virtue of this Act to make any Addition to the Number of Persons employed in performing the Duties of such Office or Employment, or to the Amount of Remuneration to be paid or allowed to any Person or Persons in respect of such Services, so as to increase the Disbursements or Expences to be charged or claimed by such Officer in respect of such Office or Employment, without the Consent in Writing of the said Lord High Treasurer or Commissioners of His Majesty's Treasury for the Time being, or any Three or more of them.

False swearing under this Act.

XXII. And be it further enacted, That every Person who shall swear falsely to any Matter respecting which an Oath either personally or in Writing is hereby required or authorized to be made, and shall be convicted of so doing wilfully and corruptly, shall be deemed guilty of wilful and corrupt Perjury, and shall suffer the Pains and Penalties of that Offence.

Power of appointing Commissioners.

XXIII. And be it further enacted, That it shall be lawful for the said Lord High Treasurer or the said Commissioners of His Majesty's Treasury for the Time being, or any Three or more of them, from Time to Time, as Occasion may be or require, to appoint such and so many Persons to be Commissioners for carrying this Act into effect as may to him or them appear fit and necessary, and any Three or more of such Commissioners to be so appointed shall be competent to act in the Execution thereof.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1830.