

to take sufficient security of them for the faithful and most effectual performance thereof, for the best safeguard, advantage and benefit of the people, according to the true intent and meaning of this act.

V. And in case any person or persons, shall in pursuance of this act be employed in the border-service, and shall at any time hereafter willfully and corruptly, or for any sinister respect whatsoever, neglect or forbear to discover or apprehend, or to bring to trial any of the said persons called *Moss-Troopers*, as aforesaid, and shall be convicted thereof, according to law, he or they shall from thenceforth be disabled and made incapable for ever after to manage or take upon him or them the said employment, and to suffer such fine and imprisonment, according to the quality of his or their offence, as the justices of peace at their general sessions shall think fit to inflict.

VI. Provided nevertheless, and be it hereby declared, That it shall be lawful for the justices of peace of either of the said counties as aforesaid respectively, at any time hereafter, to moderate or lessen the said charge, if they see cause.

VII. Provided, That this act shall continue and be in force for five years and no longer.

VIII. Provided always, and be it further enacted by the authority aforesaid, That for better suppression and punishment of the said *Moss-Troopers* flying out of *England* into *Scotland*, or out of *Scotland* into *England*, the statutes made in the several sessions of parliament in the fourth and seventh years of King *James* shall be revived and put in execution according to their true intent. 18 *Car.* 2. cap. 3, Continued for seven years from the expiration of this act. Farther continued for eleven years by 10 *Geo.* 1. c. 17. f. 1. Continued till 1 Sept. 1744, &c. by 6 *Geo.* 2. c. 37. f. 7. and by 17. *Geo.* 2. c. 40. to 24 June 1751, and to the end of the next session of parliament.

4 Jac. 1. c. 1.
7 Jac. 1. c. 1.
7 & 8 Will. 3.
c. 17.
12 Will. 3. c. 6.
12 Ann. c. 10.

C A P. XXIII.

An additional act concerning matter of assurance used amongst merchants.

WHEREAS by act of parliament made in the three and fortieth year of the reign of *Queen Elizabeth* of happy memory, intituled, An act concerning matters of assurances used amongst merchants; the parliament then taking into consideration, by all good means to comfort and encourage the merchants of this kingdom, thereby to advance and increase the wealth of this realm, her Majesty's customs and the strength of shipping, and for preventing of divers mischiefs in the said act mentioned; it was enacted, That it should and might be lawful for the lord chancellor or lord keeper of the great seal of *England*, for the time being, to award forth under the great seal of *England* one general or standing commission to be renewed yearly at the least, and otherwise so often as unto the lord chancellor or lord keeper should seem meet, for the bearing and determining of causes arising on policies of assurance, such as then were, or then after should

43 Eliz. c. 12.
Encouragements of merchants and trade.

should be entered within the office of assurance of the city of London: (2) which commissions should be directed to the judge of the admiralty for the time being, the recorder of London for the time being, two doctors of the civil law, two common lawyers, and eight grave or discreet merchants, or any five of them; (3) which commissioners, or the greater part of them which should sit and meet, should have full power and authority to hear, examine, order and decree all and every such cause or causes in a brief and summary course without formalities of pleadings or proceedings, with power to warn parties to come before them, and to examine upon oath any witnesses that should be produced, and to commit to prison any person that should wilfully disobey their final orders and decrees; (4) and the commissioners to sit once weekly upon the execution of the said commission, with a liberty in the said act for any person grieved by any such sentence or decree, to exhibit his bill in chancery for the re-examination of such sentence or decree, as by the said act, relation being thereunto had, more at large may appear: (5) But forasmuch as by the said recited act, without five commissioners there cannot be a court, and without there be a court they cannot proceed in the execution of their commission, so much as to summon parties or witnesses to appear; and in case of neglect or refusal of any party or witness to appear, they have no power to punish the delay or contempt with costs, or otherwise; (6) and it is provided by the said act, That not any commissioner, other than the judge of the admiralty, or the recorder of London, shall proceed in the execution of such commission, before he hath taken his oath before the lord mayor and court of aldermen to proceed uprightly and indifferently between party and party, which, upon the renewing of the said commissions, often proves a great delay, there being so many commissioners to be sworn, and the court of aldermen not sitting at some times in the year when the said commissions have happened to be renewed; (7) and although the said commissioners upon their final sentence have power to commit to prison any person that shall wilfully disobey their said sentences or decrees, yet they have no power to make any order against the ship or goods, which commonly are the things assured; (8) by which omissions, for want of power given by the said act, the benefits intended by the said act of parliament are much retarded, and the mischiefs by the act endeavoured to be prevented, much increased:

II. For remedy whereof, be it enacted and ordained, and it is hereby enacted and ordained by the King's most excellent Majesty, and by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, That from and after the four and twentieth day of June, which shall be in the year of our Lord one thousand six hundred sixty and two, it shall and may be lawful to and for the lord chancellor or lord keeper of the great seal of England for the time being, to issue out yearly (or oftner if need require) one standing commission under the great seal of England, thereby empowering and authorizing the said commissioners, or any three of them (whereof a doctor of the civil law, or a barister at law of five years standing at the least, to be always one) to meet

Three commissioners empowered to act.

meet and fit, and make a court, and proceed in all things in the execution of the said commission, as before by the said act any five might have done; (2) and that the said commissioners, or any such three of them, as aforesaid, be and hereby are empowered to summon parties and witnesses to appear, and in case of contempt or wilful delay in the witnesses upon the first summons and tender of reasonable charges, and in the parties upon their second summons, to punish the offenders by imprisonment or costs for such time and in such manner as shall be reasonable, and according to the nature and quality of their offences; (3) and that it shall and may be lawful to and for every such commissioner to proceed in the execution of the said commission, having first taken an oath before the lord mayor of the city of *London* for the time being only, to proceed uprightly and indifferently between party and party; and the said lord mayor is hereby authorized to give such oath; any thing in the said act to the contrary notwithstanding: (4) And that no person shall proceed in execution of the said commission, before he be first sworn before the lord mayor of *London* for the time being to proceed uprightly and indifferently between party and party, as formerly he should have been before the lord mayor and court of aldermen.

Shower 396.

Costs.

Lord mayor of London may administer the oath.

III. Be it also enacted by the authority aforesaid, That in case the said commissioners, or any such three of them as aforesaid, shall find cause to examine witnesses beyond the seas, or any remote parts of his Majesty's dominions, for the clearing of any doubt or matter before them depending, that in such case by direction of the said commissioners, or any such three of them, like commissions or process shall issue out of the court of admiralty, as have formerly been for the purposes aforesaid, returnable before the said commissioners; (2) and that the said commissioners, or any such three of them, shall have also power to give and pass their final sentence, decree and executions, as well against the body of the party evicted, or his goods as also against the executors and administrators of such party so evicted; and to assess costs of suit upon such person or persons as shall be condemned by the decree of the said court, as to them shall seem just.

Commissions out of the admiralty courts to examine witnesses beyond sea.

IV. *And forasmuch as many witnesses (as seamen and others) come and speedily go again to sea, before a court can be summoned, by which means the assured and assurers are many times much damnified;* (2) for the preventing of which mischief, be it also enacted by the authority aforesaid, That it shall and may be lawful to and for any one of the said commissioners to administer an oath to any witness legally summoned to give testimony, (timely notice being thereof given to the adverse party, and set up in the office before such examination) to the end such witness or witnesses may be cross-examined.

Witnesses going to sea, how to be examined before.

V. Provided always, That the said commissioners shall in no case proceed both against person and goods for one and the same debt; (2) and provided also, That any thing in this act contained,

Appeal to the chancery.

tained shall not in any wise extend to prejudice the appeal to the high court of chancery given or allowed in the said former act of parliament.

CAP. XXIV.

An act declaratory concerning bankrupts.

WHEREAS divers noblemen, gentlemen and persons of quality, no ways bred up to trade or merchandize, do oftentimes put in great stocks of money into the East-India company, or Guiney company, and the fishing trade, and such other publick societies, and receive the proceeds of those stocks sometimes in ready monies, sometimes in commodities which they usually sell for money, or exchange again; by which means the trade of those companies is much encouraged, fishing and navigation increased, and the publick good of the whole kingdom very much advanced:

34 & 35 H. 8.
c. 4.

II. Notwithstanding which great advantages to the publick, there hath been lately some opinion conceived, that such person may and ought to be made subject to the statutes provided against bankrupts.

23 Eliz. c. 7.
1 Jac. 1. c. 15.
21 Jac. 1. c. 19.
March 34.

III. For the better declaring and explaining the law therein, and to the end such persons may not be discouraged in those honourable endeavours for promoting publick undertakings; (2) be it declared and enacted by the King's most excellent majesty, with the advice and assent of the lords spiritual and temporal, and the commons in this present parliament assembled, and by the authority of the same, That no person or persons whatsoever who have adventured or put in, or who hereafter shall adventure or put in, any sum or sums of money in the said East-India company or Guiney company, or into any joint stock or stocks of money by them or either of them made or raised, or to be made and raised, for and towards the maintaining and carrying on the trade by the said East-India company or Guiney company managed or to be managed, or who have formerly or shall hereafter adventure or put in any sum or sums of money into any stock or stocks of money for the managing and carrying on of the said fishing trade, or the trade now called the *Royal Fishing Trade*, and shall receive and take his or their part or dividend of fish, goods or merchandizes in specie, and shall sell or exchange the same, shall for or by reason only of such adventure of monies so put into the said East-India company or Guiney company, or into any stock or stocks for and towards the said fishing trade, or for or by reason only of the receiving and taking such fish, goods and merchandizes in specie, or selling for money, or exchanging the same again, be adjudged, taken, esteemed or reputed a merchant or trader within any statute or statutes for bankrupts, or be liable to the same.

No persons for putting in money to the East-India or Guiney company, or the fishing trade, shall be esteemed a trader within the statute of bankrupts.

Proviso for other trading.

IV. Provided always, and it is hereby declared, That every person or persons who shall trade, traffique or merchandize in any other way or manner than in the said *Royal Fishing Trade*, or the trade managed by the said East-India company or the Guiney company as aforesaid, shall for and by reason of his and their trading, trafficking and merchandizing, be liable to com-
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