

C A P. 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.
—[July 2, 1801.]

Preamble.

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; and by letters patent may grant to any such judges, upon resignation, an annuity payable out of the consolidated fund.

No such annuity to be valid, unless the judge shall have continued in office for 6 years, or be unable to do the duty.

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 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*.

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 payable out of the consolidated fund, 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.

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.

His Majesty may establish rules for the courts, and regulate the fees to be taken.

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 profits of each judge shall not exceed 2,000l. per annum over his salary, and he shall keep an account thereof, and transmit it annually to the commissioners of the navy.

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 the several and respective judges and officers thereof in any two of the islands in the *West Indies* and at *Hali-fax*, 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.

The courts may exercise over all prizes, &c. the same powers as if 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 all

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*, &c. for any purpose of legal adjudication, and all

marshals, &c. shall execute processses issuing from such courts.

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 processses of any similar nature, or in default of any such being resident in any island or colony, all officers executing any legal processses, by whatever name or names any such officer shall be called, shall and are hereby required to execute the processses 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.

Where a commission of appraisement and sale is granted before final sentence, the proceeds shall be brought into the registry of the court.

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.

At request of appellants, the court may

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.

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, 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 name 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.

IX. And be it further enacted, That if on any final sentence or adjudication of any such court, an appeal shall be duly entered,

tered, 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 hereinbefore 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.

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.

X. *And whereas great inconveniences 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 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 or 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

In processes of the court of appeal, service upon his Majesty's proctor shall be deemed 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.

What shall be deemed sufficient service, where no appeal has been entered as aforesaid.

In proceedings upon captures by privateers the owners to be considered parties, and they and the sureties liable to decrees immediately after final sentence.

Act not to prevent a claimant from having the property delivered to him as directed by 33 Geo. 3. c. 66.

Orders issued by the lords commissioners of appeal to be executed in his Majesty's plantations, may be transmitted to either of the vice admiralty courts.

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 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.

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.

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.*

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 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

tered 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.

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. Act not to restrain his Majesty from granting commission of prize to any other courts, or from making further rules with

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*. Such courts shall be subject to the same rules and possess the same powers, as provided by this act.

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*. No judge to act as agent for prizes, or have any interest in any privateer, or be concerned in the care of any estates.

C A P. XCVII.

An act to continue several laws relating to encouraging the fisheries carried on at Newfoundland and parts adjacent from Great Britain, Ireland, and the British dominions in Europe until the first day of January one thousand eight hundred and three; to the further support and encouragement of the fisheries carried on in the Greenland Seas and Davis's Streights, until the twenty-fifth day of December one thousand eight hundred and two; to the making the port of Saint John's, in the island of Antigua, a free port, until the tenth day of July one thousand eight hundred and five; and to the permitting the importation of goods and commodities from countries in America, belonging to any foreign European sovereign or state, in neutral ships, until the end of the war, and six months after the signing the definitive treaty of peace; for reviving and further continuing until the twenty-fourth day of June one thousand eight hundred and six, an act made in the twenty-ninth year of his late majesty King George the Second for granting a bounty upon certain species of British and Irish linens exported, and taking off the duties on importation of foreign raw linen yarns made of flax; for reviving and continuing until the fifth day of April one thousand eight hundred and two, and amending an act made in the thirty-ninth and fortieth years of the reign of his present Majesty, for the more effectual encouragement of the British fisheries; and for making perpetual so much of an act made in the twenty-seventh year of the reign of his present Majesty as relates to ascertaining the strength of spirits by Clark's hydrometer. — [July 2, 1801.]

So much of 26 Geo. 3. c. 26. for encouraging the Newfoundland fisheries &c. as relates to bounties continued to Jan. 1, 1803. 26. Geo. 3. c. 41. for