ANNO VICESIMO QUARTO

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An Act to extend the Jurisdiction and improve the Practice of the High Court of Admiralty.

[17th *May* 1861.]

WHEREAS it is expedient to extend the Jurisdiction and improve the Practice of the High Court of Admiralty of *England:* Be it therefore enacted by the Queen'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, as follows:

1. This Act may be cited for all Purposes as "The Admiralty Court Act, 1861." Short Title.

2. In the Interpretation and for the Purposes of this Act (if not inconsistent with the Context or Subject) the following Terms shall have the respective Meanings herein-after assigned to them; that is to say, Interpretation of Terms.

"Ship" shall include any Description of Vessel used in Navigation not propelled by Oars:

"Cause" shall include any Cause, Suit, Action, or other Proceeding in the Court of Admiralty.

3. This Act shall come into operation on the First Day of *June* One thousand eight hundred and sixty-one. Commencement of Act.

Admiralty Court Jurisdiction.

As to Claims for building, equipping, or repairing of Ships.

4. The High Court of Admiralty shall have Jurisdiction over any Claim for the building, equipping, or repairing of any Ship, if at the Time of the Institution of the Cause the Ship or the Proceeds thereof are under Arrest of the Court.

As to Claims for Necessaries.

5. The High Court of Admiralty shall have Jurisdiction over any Claim for Necessaries supplied to any Ship elsewhere than in the Port to which the Ship belongs, unless it is shown to the Satisfaction of the Court that at the Time of the Institution of the Cause any Owner or Part Owner of the Ship is domiciled in *England* or *Wales:* Provided always, that if in any such Cause the Plaintiff do not recover Twenty Pounds he shall not be entitled to any Costs, Charges, or Expenses incurred by him therein, unless the Judge shall certify that the Cause was a fit one to be tried in the said Court.

As to Claims for Damage to Cargo imported.

6. The High Court of Admiralty shall have Jurisdiction over any Claim by the Owner or Consignee or Assignee of any Bill of Lading of any Goods carried into any Port in *England* or *Wales* in any Ship, for Damage done to the Goods or any Part thereof by the Negligence or Misconduct of or for any Breach of Duty or Breach of Contract on the Part of the Owner, Master, or Crew of the Ship, unless it is shown to the Satisfaction of the Court that at the Time of the Institution of the Cause any Owner or Part Owner of the Ship is domiciled in *England* or *Wales:* Provided always, that if in any such Cause the Plaintiff do not recover Twenty Pounds he shall not be entitled to any Costs, Charges, or Expenses incurred by him therein, unless the Judge shall certify that the Cause was a fit one to be tried in the said Court.

As to Claims for Damage by any Ship.

7. The High Court of Admiralty shall have Jurisdiction over any Claim for Damage done by any Ship.

High Court of Admiralty to decide Questions as to Ownership, &c. of Ships.

8. The High Court of Admiralty shall have Jurisdiction to decide all Questions arising between the Co-owners, or any of them, touching the Ownership, Possession, Employment, and Earnings of any Ship registered at any Port in *England* or *Wales*, or any Share thereof, and may settle all Accounts outstanding and unsettled between the Parties in relation thereto, and may direct the said Ship or any Share thereof to be sold, and may make such Order in the Premises as to it shall seem fit.

Extending 17 & 18 Vict. c. 104. as to Claims for Salvage of Life.

9. All the Provisions of "The Merchant Shipping Act, 1854," in regard to Salvage of Life from any Ship or Boat within the Limits of the United Kingdom, shall be extended to the Salvage of Life from

from any *British* Ship or Boat, wheresoever the Services may have been rendered, and from any Foreign Ship or Boat, where the Services have been rendered either wholly or in part in *British* Waters.

As to Claims for Wages and for Disbursements by Master of a Ship.

10. The High Court of Admiralty shall have Jurisdiction over any Claim by a Seaman of any Ship for Wages earned by him on board the Ship, whether the same be due under a special Contract or otherwise, and also over any Claim by the Master of any Ship for Wages earned by him on board the Ship, and for Disbursements made by him on account of the Ship: Provided always, that if in any such Cause the Plaintiff do not recover Fifty Pounds, he shall not be entitled to any Costs, Charges, or Expenses incurred by him therein, unless the Judge shall certify that the Cause was a fit one to be tried in the said Court.

3 & 4 Vict. c. 65. in regard to Mortgages extended to Court of Admiralty.

11. The High Court of Admiralty shall have Jurisdiction over any Claim in respect of any Mortgage duly registered according to the Provisions of "The Merchant Shipping Act, 1854," whether the Ship or the Proceeds thereof be under Arrest of the said Court or not.

Sections 62 to 65 of 17 & 18 Vict. c. 104. extended to Court of Admiralty.

12. The High Court of Admiralty shall have the same Powers over any *British* Ship, or any Share therein, as are conferred upon the High Court of Chancery in *England* by the Sixty-second, Sixty-third, Sixty-fourth, and Sixty-fifth Sections of "The Merchant Shipping Act, 1854."

Part 9 of 17 & 18 Vict. c. 104. extended to Court of Admiralty.

13. Whenever any Ship or Vessel, or the Proceeds thereof, are under Arrest of the High Court of Admiralty, the said Court shall have the same Powers as are conferred upon the High Court of Chancery in *England* by the Ninth Part of "The Merchant Shipping Act, 1854."

Court to be a Court of Record.

14. The High Court of Admiralty shall be a Court of Record for all Intents and Purposes.

Decrees and Orders of Court of Admiralty to have Effect of Judgments at Common Law.

15. All Decrees and Orders of the High Court of Admiralty, whereby any Sum of Money, or any Costs, Charges, or Expenses, shall be payable to any Person, shall have the same Effect as Judgments in the Superior Courts of Common Law, and the Persons to whom any such Monies, or Costs, Charges, or Expenses, shall be payable, shall be deemed Judgment Creditors, and all Powers of enforcing Judgments possessed by the Superior Courts of Common Law, or any Judge thereof, with respect to Matters depending in the same Courts, as well against the Ships and Goods arrested as against the Person of the

Judgment

Judgment Debtor, shall be possessed by the said Court of Admiralty with respect to Matters therein depending; and all Remedies at Common Law possessed by Judgment Creditors shall be in like Manner possessed by Persons to whom any Monies, Costs, Charges, or Expenses are by such Orders or Decrees of the said Court of Admiralty directed to be paid.

As to Claims to Goods taken in Execution.

16. If any Claim shall be made to any Goods or Chattels taken in Execution under any Process of the High Court of Admiralty, or in respect of the Seizure thereof, or any Act or Matter connected therewith, or in respect of the Proceeds or Value of any such Goods or Chattels, by any Landlord for Rent, or by any Person not being the Party against whom the Process has issued, the Registrar of the said Court may, upon Application of the Officer charged with the Execution of the Process, whether before or after any Action brought against such Officer, issue a Summons calling before the said Court both the Party issuing such Process and the Party making the Claim, and thereupon any Action which shall have been brought in any of Her Majesty's Superior Courts of Record, or in any local or inferior Court, in respect of such Claim, Seizure, Act, or Matter as aforesaid, shall be stayed, and the Court in which such Action shall have been brought, or any Judge thereof, on Proof of the Issue of such Summons, and that the Goods and Chattels were so taken in Execution, may order the Party bringing the Action to pay the Costs of all Proceedings had upon the Action after Issue of the Summons out of the said Admiralty Court, and the Judge of the said Admiralty Court shall adjudicate upon the Claim, and make such Order between the Parties in respect thereof and of the Costs of the Proceedings, as to him shall seem fit, and such Order shall be enforced in like Manner as any Order made in any Suit brought in the said Court. Where any such Claim shall be made as aforesaid the Claimant may deposit with the Officer charged with the Execution of the Process either the Amount or Value of the Goods claimed, the Value to be fixed by Appraisement in case of Dispute, to be by the Officer paid into Court to abide the Decision of the Judge upon the Claim, or the Sum which the Officer shall be allowed to charge as Costs for keeping Possession of the Goods until such Decision can be obtained, and in default of the Claimant so doing the Officer may sell the Goods as if no such Claim had been made, and shall pay into Court the Proceeds of the Sale, to abide the Decision of the Judge.

Powers of Superior Courts extended to Court of Admiralty.

17. The Judge of the High Court of Admiralty shall have all such Powers as are possessed by any of the Superior Courts of Common Law or any Judge thereof to compel either Party in any Cause

or

or Matter to answer Interrogatories, and to enforce the Production, Inspection, and Delivery of Copies of any Document in his Possession or Power.

Party in Court of Admiralty may apply for an Order for Inspection by Trinity Masters.

18. Any Party in a Cause in the High Court of Admiralty shall be at liberty to apply to the said Court for an Order for the Inspection by the Trinity Masters or others appointed for the Trial of the said Cause, or by the Party himself or his Witnesses, of any Ship or other Personal or Real Property, the Inspection of which may be material to the Issue of the Cause, and the Court may make such Order in respect of the Costs arising thereout as to it shall seem fit.

Admission of Documents.

19. Any Party in a Cause in the High Court of Admiralty may call on any other Party in the Cause by Notice in Writing to admit any Document, saving all just Exceptions, and in case of Refusal or Neglect to admit, the Costs of proving the Document shall be paid by the Party so neglecting or refusing, whatever the Result of the Cause may be, unless at the Trial the Judge shall certify that the Refusal to admit was reasonable.

Power to Court of Admiralty, when personal Service of Citation has not been effected, to order Parties to proceed.

20. Whenever it shall be made to appear to the Judge of the High Court of Admiralty that reasonable Efforts have been made to effect personal Service of any Citation, Monition, or other Process issued under Seal of the said Court, and either that the same has come to the Knowledge of the Party thereby cited or monished, or that he wilfully evades Service of the same, and has not appeared thereto, the said Judge may order that the Party on whose Behalf the Citation, Monition, or other Process was issued be at liberty to proceed as if personal Service had been effected, subject to such Conditions as to the Judge may seem fit, and all Proceedings thereon shall be as effectual as if personal Service of such Citation, Monition, or other Process had been effected.

As to the Service of Subpœna out of England and Wales.

21. The Service in any Part of *Great Britain* or *Ireland* of any Writ of Subpœna ad testificandum or Subpœna duces tecum, issued under Seal of the High Court of Admiralty, shall be as effectual as if the same had been served in *England* or *Wales*.

Power to issue new Writs or other Process.

22. Any new Writ or other Process necessary or expedient for giving Effect to any of the Provisions of this Act may be issued from the High Court of Admiralty in such Form as the Judge of the said Court shall from Time to Time direct.

23. All

Judge and Registrar to have same Power as to Arbitration as Judges and Masters at Common Law.

23. All the Powers possessed by any of the Superior Courts of Common Law or any Judge thereof, under the Common Law Procedure Act, 1854, and otherwise, with regard to References to Arbitration, Proceedings thereon, and the enforcing of Awards of Arbitrators, shall be possessed by the Judge of the High Court of Admiralty in all Causes and Matters depending in the said Court, and the Registrar of the said Court of Admiralty shall possess as to such Matters the same Powers as are possessed by the Masters of the said Superior Courts of Common Law in relation thereto.

Section 15 of 17 & 18 Vict. c. 104. extended to Registrar of Court of Admiralty.

24. The Registrar of the High Court of Admiralty shall have the same Powers under the Fifteenth Section of the Merchant Shipping Act, 1854, as are by the said Section conferred on the Masters of Her Majesty's Court of Queen's Bench in *England* and *Ireland*.

Powers of Registrar and of Deputy or Assistant Registrar.

25. The Registrar of the High Court of Admiralty may exercise, with reference to Causes and Matters in the said Court, the same Powers as any Surrogate of the Judge of the said Court sitting in Chambers might or could have heretofore lawfully exercised; and all Powers and Authorities by this or any other Act conferred upon or vested in the Registrar of the said High Court of Admiralty may be exercised by any Deputy or Assistant Registrar of the said Court.

False Oath or Affirmation deemed Perjury.

26. The Registrar of the said Court of Admiralty shall have Power to administer Oaths in relation to any Cause or Matter depending in the said Court; and any Person who shall wilfully depose or affirm falsely in any Proceeding before the Registrar or before any Deputy or Assistant Registrar of the said Court, or before any Person authorized to administer Oaths in the said Court, shall be deemed to be guilty of Perjury, and shall be liable to all the Pains and Penalties attaching to wilful and corrupt Perjury.

Appointment of Registrar and of Deputy or Assistant Registrar.

27. Any Advocate, Barrister-at-Law, Proctor, Attorney, or Solicitor of Ten Years standing may be appointed Registrar or Assistant or Deputy Registrar of the said Court.

Appointment of Examiners.

28. Any Advocate, Barrister-at-Law, Proctor, Attorney, or Solicitor may be appointed an Examiner of the High Court of Admiralty.

Stamp Duty not payable on subsequent Admis-

29. Any Person who shall have paid on his Admission in any Court as a Proctor, Solicitor, or Attorney the full Stamp Duty of Twenty-five Pounds, and who has been or shall hereafter be admitted a Proctor,

a Proctor, Solicitor, or Attorney, (if in other respects entitled to be so admitted,) shall be liable to no further Stamp Duty in respect of such subsequent Admission. sions of Proctors or Solicitors.

30. Any Proctor of the High Court of Admiralty may act as Agent of any Attorney or Solicitor, and allow him to participate in the Profits of and incident to any Cause or Matter depending in or connected with the said Court; and nothing contained in the Act of the Fifty-fifth Year of the Reign of King *George* the Third, Chapter One hundred and sixty, shall be construed to extend to prevent any Proctor from so doing, or to render him liable to any Penalty in respect thereof. Proctor may act as Agent of Solicitors.

31. The Act passed in the Second Year of the Reign of King *Henry* the Fourth, intituled *A Remedy for him who is wrongfully pursued in the Court of Admiralty*, is hereby repealed. 2 Hen. 4. c. 11. repealed.

32. Any Party aggrieved by any Order or Decree of the Judge of the said Court of Admiralty, whether made *ex parte* or otherwise, may, with the Permission of the Judge, appeal therefrom to Her Majesty in Council, as fully and effectually as from any final Decree or Sentence of the said Court. Power of Appeal in interlocutory Matters.

33. In any Cause in the High Court of Admiralty Bail may be taken to answer the Judgment as well of the said Court as of the Court of Appeal, and the said High Court of Admiralty may withhold the Release of any Property under its Arrest until such Bail has been given; and in any Appeal from any Decree or Order of the High Court of Admiralty the Court of Appeal may make and enforce its Order against the Surety or Sureties who may have signed any such Bail Bond in the same Manner as if the Bail had been given in the Court of Appeal. Bail given in the Court of Admiralty good in the Court of Appeal.

34. The High Court of Admiralty may, on the Application of the Defendant in any Cause of Damage, and on his instituting a Cross Cause for the Damage sustained by him in respect of the same Collision, direct that the Principal Cause and the Cross Cause be heard at the same Time and upon the same Evidence; and if in the Principal Cause the Ship of the Defendant has been arrested or Security given by him to answer Judgment, and in the Cross Cause the Ship of the Plaintiff cannot be arrested, and Security has not been given to answer Judgment therein, the Court may, if it think fit, suspend the Proceedings in the Principal Cause, until Security has been given to answer Judgment in the Cross Cause. As to the hearing of Causes and CrossCauses.

35. The

Admiralty Court Jurisdiction.

Jurisdiction of the Court.

35. The Jurisdiction conferred by this Act on the High Court of Admiralty may be exercised either by Proceedings in rem or by Proceedings in personam.

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