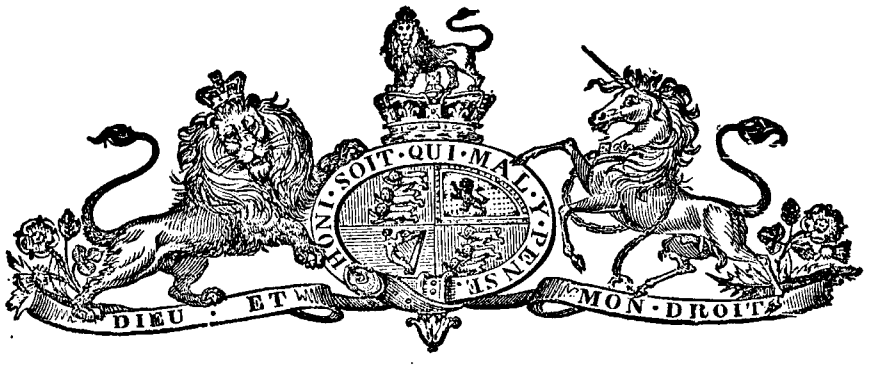


ANNO TRICESIMO PRIMO & TRICESIMO SECUNDO

VICTORIÆ REGINÆ.

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CAP. LXXI.

An Act for conferring Admiralty Jurisdiction on the County Courts. [31st *July* 1868.]

BE it 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:

Short Title.

1. This Act may be cited as The County Courts Admiralty Jurisdiction Act, 1868.

Appointment of County Courts for Admiralty Purposes.

2. If at any Time after the passing of this Act it appears to Her Majesty in Council, on the Representation of the Lord Chancellor, expedient that any County Court should have Admiralty Jurisdiction, it shall be lawful for Her Majesty, by Order in Council, to appoint that Court to have Admiralty Jurisdiction accordingly, and to assign to that Court as its District for Admiralty Purposes any Part or Parts of any One or more District or Districts of County Courts; and the District so constituted for that Court, with the Parts of the Sea (if any) adjacent to that District to a Distance of Three Miles from the Shore thereof, shall be deemed its District for Admiralty Purposes; and accordingly the Judge and all Officers of the Court shall have Jurisdiction and Authority for those Purposes throughout that

that District, as if the same was the District of the Court for all Purposes; and, from a Time to be specified in each such Order, this Act shall have Effect in and throughout the District so constituted; and any such Order may be from Time to Time varied as seems expedient; and a County Court so appointed to have Admiralty Jurisdiction, and no other County Court, shall, for the Purposes of this Act, be deemed a County Court having Admiralty Jurisdiction: Provided that no Judge of a County Court, except the Judges of the *London* Court, shall have Jurisdiction in the City of *London*.

Extent of Admiralty Jurisdiction of County Courts.

3. Any County Court having Admiralty Jurisdiction shall have Jurisdiction, and all Powers and Authorities relating thereto, to try and determine, subject and according to the Provisions of this Act, the following Causes (in this Act referred to as Admiralty Causes):

(1.) As to any Claim for Salvage—Any Cause in which the Value of the Property saved does not exceed One thousand Pounds, or in which the Amount claimed does not exceed Three hundred Pounds:

(2.) As to any Claim for Towage, Necessaries, or Wages—Any Cause in which the Amount claimed does not exceed One hundred and fifty Pounds:

(3.) As to any Claim for Damage to Cargo, or Damage by Collision—Any Cause in which the Amount claimed does not exceed Three hundred Pounds:

(4.) Any Cause in respect of any such Claim or Claims as aforesaid, but in which the Value of the Property saved or the Amount claimed is beyond the Amount limited as above mentioned, when the Parties agree by a Memorandum signed by them or by their Attorneys or Agents that any County Court having Admiralty Jurisdiction, and specified in the Memorandum, shall have Jurisdiction.

Restrictions on County Court Jurisdiction in certain Cases.

4. Nothing in this Act, or in any Order in Council under it, shall confer on a County Court Jurisdiction in any Prize Cause, or in any other Matter within the Naval Prize Act, 1864, or in any Matter arising under any of the Acts for the Suppression of the Slave Trade, or any Admiralty Jurisdiction by way of Appeal.

No County Court other than that appointed to have Jurisdiction.

5. From and after the Time specified in each Order in Council under this Act appointing a County Court to have Admiralty Jurisdiction within any District as the Time from which this Act shall have Effect in and throughout that District, no County Court, other than

than the County Court so appointed, shall have Jurisdiction within that District in any Admiralty Cause; provided that all Admiralty Causes at that Time pending in any County Court within that District may be continued as if no such Order in Council had been made.

As to Transfer from County Court by Order of High Court of Admiralty.

6. The High Court of Admiralty of *England*, on Motion by any Party to an Admiralty Cause pending in a County Court, may, if it shall think fit, with previous Notice to the other Party, transfer the Cause to the High Court of Admiralty, and may order Security for Costs, or impose such other Terms as to the Court may seem fit.

As to Transfer of Causes by Order of County Court to High Court of Admiralty.

7. If during the Progress of an Admiralty Cause in a County Court it appears to the Court that the Subject Matter exceeds the Limit in respect of Amount of the Admiralty Jurisdiction of the Court, the Validity of any Order or Decree theretofore made by the Court shall not be thereby affected, but (unless the Parties agree, by a Memorandum signed by them or by their Attorneys or Agents, that the Court shall retain Jurisdiction,) the Court shall by Order transfer the Cause to the High Court of Admiralty; but that Court may, nevertheless, if the Judge of that Court in any Case thinks fit, order that the Cause shall be prosecuted in the County Court in which it was commenced, and it shall be prosecuted accordingly.

As to Transfer of Causes to other County Courts or Court of Admiralty.

8. If during the Progress of an Admiralty Cause in a County Court it shall appear to the Court that the Cause could be more conveniently prosecuted in some other County Court, or in the High Court of Admiralty of *England*, the Court may by Order transfer it to such other County Court, or to the High Court of Admiralty of *England*, as the Case may be, and the Cause shall thenceforward be so prosecuted accordingly.

Restrictions on Proceedings in the Court of Admiralty or Superior Court.

9. If any Person shall take in the High Court of Admiralty of *England* or in any Superior Court Proceedings which he might, without Agreement, have taken in a County Court, except by Order of the Judge of the High Court of Admiralty or of such Superior Court or of a County Court having Admiralty Jurisdiction, and shall not recover a Sum exceeding the Amount to which the Jurisdiction of the County Court in that Admiralty Cause is limited by this Act, and also if any Person without Agreement shall, except by Order as aforesaid, take Proceedings as to Salvage in the High Court of Admiralty or in any Superior Court in respect of Property saved, the Value of which when saved does not exceed One thousand Pounds, he shall not be entitled to Costs,

Costs, and shall be liable to be condemned in Costs, unless the Judge of the High Court of Admiralty or of a Superior Court before whom the Cause is tried or heard shall certify that it was a proper Admiralty Cause to be tried in the High Court of Admiralty of *England* or in a Superior Court.

Powers, &c. of Judges and Registrars.

10. In an Admiralty Cause in a County Court the Cause shall be heard and determined in like Manner as ordinary Civil Causes are now heard and determined in County Courts; save and except that in any Admiralty Cause of Salvage, Towage, or Collision the County Court Judge shall, if he think fit, or on the Request of either Party to such Cause, be assisted by Two Nautical Assessors in the same Way as the Judge of the High Court of Admiralty is now assisted by Nautical Assessors.

Power to Judge of County Court to summon Nautical Assessors to his Assistance.

11. In any such Admiralty Cause as last aforesaid it shall be lawful for the Judge of the County Court, if he think fit, and he shall, upon Request of either Party, summon to his Assistance in such Manner as General Orders shall direct Two Nautical Assessors, and such Nautical Assessors shall attend and assist accordingly.

Decrees in County Courts in Admiralty Causes to have same Force as those in Civil Causes.

12. The Decree of the County Court in an Admiralty Cause shall be enforced against the Person or Persons summoned as the Defendant or Defendants in the same Manner as the Decrees of the said Court are enforced in ordinary Civil Causes, save and except as in this Act otherwise provided.

Admiralty Causes to be heard at usual Courts.

13. The Judge of every County Court having Admiralty Jurisdiction shall hear and determine Admiralty Causes at the usual Courts held within his Jurisdiction, or at special Courts to be held by him, and which he is hereby required to hold as soon as may be after he shall have had Notice of an Admiralty Cause having arisen within the Jurisdiction of his Court.

Appointment of Assessors in County Court.

14. The Registrar of each County Court having Admiralty Jurisdiction shall from Time to Time frame a List, to be approved by the Judge of the High Court of Admiralty before whom the same shall be laid by the County Court Judge, and without whose Approval it shall have no Validity, of Assessors, of Persons of nautical Skill and Experience residing or having Places of Business within the District of the County Court, to act as Assessors in that Court, and shall cause the List to be published in the *London Gazette*.

Attendance of Assessors.

15. Every Person named in the List of Assessors so framed and approved shall attend the County Court under such Circumstances, and

and in such Rotation, and subject to such Regulations, and shall receive such Fees for his Attendance, as General Orders shall direct, and for every wilful Non-attendance shall be liable, at the Discretion of the Court, to a Penalty not exceeding Five Pounds.

Removal of Assessors.

16. Every Assessor named in such List shall hold his Office until a new List of Assessors shall have been framed and approved as aforesaid, or until he shall resign his Appointment.

Remuneration of Registrars.

17. The Registrars of the County Courts shall be remunerated for their Duties in Admiralty Causes by receiving for their own Use such Fees as General Orders shall direct.

Scale of Costs.

18. A Scale of Costs and Charges in Admiralty Causes in the County Courts shall be prescribed by General Orders.

Power to Registrars to administer Oaths and take Evidence.

19. The Registrar of a County Court shall have Power to administer Oaths in relation to any Admiralty Cause in a County Court; and any Person who shall wilfully depose or affirm falsely before the Registrar in any Admiralty Cause shall be deemed to be guilty of Perjury, and shall be liable to all the Pains and Penalties attaching to wilful and corrupt Perjury.

Evidence before Registrar receivable in Admiralty Court.

20. Evidence taken in any Admiralty Cause before the Registrar of a County Court, as the Judge of a County Court or General Orders shall direct, shall be received as Evidence in any other County Court, saving all just Exceptions; and the Registrar of any County Court shall, for the Purpose of the Examination of any Witnesses within the District of that Court, have all and the like Powers and Authorities of an Examiner of the High Court of Admiralty of *England*, and Evidence taken by him in that Capacity shall be received as Evidence in the High Court of Admiralty of *England*, saving all just Exceptions.

As to Proceedings in County Court for Commencement of Cause.

21. Proceedings in an Admiralty Cause shall be commenced—

(1.) In the County Court having Admiralty Jurisdiction within the District of which the Vessel or Property to which the Cause relates is at the Commencement of the Proceedings:

(2.) If the foregoing Rule be not applicable, then in the County Court having Admiralty Jurisdiction in the District of which the Owner of the Vessel or Property to which the Cause relates, or his Agent in *England*, resides, or if such Owner or Agent does not reside within any such District, then in the County Court having Admiralty Jurisdiction the District whereof is nearest to the Place where such Owner or Agent resides:

(3.) If for any Reason the last foregoing Rule is not applicable or cannot be acted on, then in such County Court having Admiralty Jurisdiction as General Orders direct:

(4.) In any Case in the County Court or One of the County Courts having Admiralty Jurisdiction in which the Parties by a Memorandum, signed by them or by their Attorneys or Agents, agree shall have Jurisdiction in the Cause.

Limitation of Arrest.

22. In an Admiralty Cause in a County Court if Evidence be given to the Satisfaction of the Judge, or in his Absence the Registrar of the Court, that it is probable that the Vessel or Property to which the Cause relates will be removed out of the Jurisdiction of the Court before the Plaintiff's Claim is satisfied, it shall be lawful for the said Judge, or in his Absence for the Registrar, to issue a Warrant for the Arrest and Detention of the said Vessel or Property, unless or until Bail to the Amount of the Claim made in such Cause, and to the reasonable Costs of the Plaintiff in such Cause, be entered into and perfected, according to General Orders, by or on behalf of the Owner of the Vessel or Property or his Agent, or other the Defendant in such Cause; and, except as in this Section expressly provided, there shall be no Arrest or Detention of a Vessel or Property in an Admiralty Cause in a County Court otherwise than in Execution.

Power to issue Process.

23. For the Execution of any Decree or Order of a County Court in an Admiralty Cause the Court may order, and the Registrar on such Order may seal and issue, and any Officer of any County Court may execute, Process according to General Orders; provided that where under such Process a Vessel or Property would or might be sold, then, if the Owner of the Vessel or Property desires that the Sale should be conducted in the High Court of Admiralty instead of in the County Court, he shall be entitled, on Security for Costs being first given, and subject and according to such other Provisions as General Orders direct, to obtain an Order of the County Court for Transfer of the Proceedings for Sale, with or without (as the Judge of the County Court thinks fit) the Transfer of the subsequent Proceedings in the Cause, to the High Court of Admiralty, which Court shall have Jurisdiction and all Powers and Authorities relating thereto accordingly.

Registration of Decrees and Orders.

24. Such Decrees and Orders of County Courts in Admiralty Causes as General Orders shall direct shall be registered with the Registrar of County Court Judgments in *London* in such Manner as General Orders shall direct.

25. The

Concurrent Jurisdiction of the Court of Passage.

25. The Court of Passage of the Borough of *Liverpool* shall, upon an Order in Council being made which shall appoint the County Court of *Lancashire* holden at *Liverpool* to have Admiralty Jurisdiction, have the like Jurisdiction, Powers, and Authorities as by that Order are conferred on the said County Court; but nothing herein shall be deemed to enlarge the Area over which the Jurisdiction of the Court of Passage extends, or to alter the Rules and Regulations for holding the said Court, or to take away or restrict any Jurisdiction, Power, or Authority already vested in that Court; and Fees received in that Court under this Act shall be dealt with as Fees received in that Court under its ordinary Jurisdiction.

Appeal to Court of Admiralty.

26. An Appeal may be made to the High Court of Admiralty of *England* from a final Decree or Order of a County Court in an Admiralty Cause, and, by Permission of the Judge of the County Court, from any interlocutory Decree or Order therein, on Security for Costs being first given, and subject to such other Provisions as General Orders shall direct.

Time for Appeal.

27. No Appeal shall be allowed unless the Instrument of Appeal is lodged in the Registry of the High Court of Admiralty within Ten Days from the Date of the Decree or Order appealed from, but the Judge of the High Court of Admiralty of *England* may, on sufficient Cause being shown to his Satisfaction for such Omission, allow an Appeal to be prosecuted, notwithstanding that the Instrument of Appeal has not been lodged within that Time.

Agreement not to appeal.

28. No Appeal shall be allowed if, before the Decree or Order is made, the Parties shall have agreed by a Memorandum signed by them, or by their Attorneys or Agents, that the Decree or Order shall be final; and any such Agreement need not be stamped, except in respect of any Fee imposed by General Orders.

As to Appeals to the Queen in Council.

29. There shall be no Appeal from a Decree or Order of the High Court of Admiralty of *England* made on Appeal from a County Court, except by express Permission of the Judge of the High Court of Admiralty.

Costs of Appeal.

30. On an Appeal under this Act, when the Appellant is unsuccessful, he shall pay the Costs of the Appeal, unless the Appellate Court shall otherwise direct.

No Appeal unless Amount exceeds 50*l.*

31. No Appeal shall be allowed unless the Amount decreed or ordered to be due exceeds the Sum of Fifty Pounds.

32. On

Conduct of Sale, &c. in Court of Admiralty.

32. On an Appeal under this Act, the Judge of the High Court of Admiralty, if it appears to him expedient that any Sale decreed or ordered to be made of the Vessel or Property to which the Cause relates should be conducted in the High Court of Admiralty instead of in the County Court from which the Appeal is brought, may direct the Transfer of the Proceedings for Sale, with or without the Transfer of the subsequent Proceedings in the Cause, to the High Court of Admiralty, which Court shall have Jurisdiction and all Powers and Authorities relating thereto accordingly.

In certain Cases Causes may be transferred by County Court and Appeals made to Court of Admiralty of the Cinque Ports.

33. In all Cases which shall arise within the Jurisdiction of the Cinque Ports as defined by the Act First and Second *George* the Fourth, Chapter Seventy-six, Section Eighteen, Causes may be transferred by the County Court and Appeals made to the Court of Admiralty of the Cinque Ports in lieu of the High Court of Admiralty; and in the Case of Appeals the Instrument of Appeal shall be lodged in the Registry of the Cinque Ports, and the same Discretion vested in the Judge Official and Commissary of the said Cinque Ports Court as is by this Act vested in the Judge of the High Court of Admiralty.

County Court Acts applied to this.

34. This Act shall be read as One Act with so much of the County Courts Act, 1846, and the Acts amending or extending the same, as is now in force.

Practice, &c. to be regulated by General Orders.

35. General Orders shall be from Time to Time made under this Act for the Purposes in this Act directed, and for regulating the Practice and Procedure of the Admiralty Jurisdiction of the County Courts, the Forms of Processes and Proceedings therein or issuing therefrom, and the Days and Places of Sittings for Admiralty Causes, the Duties of the Judges and Officers thereof, and the Fees to be taken therein.

Authority for making General Orders.

36. General Orders under this Act shall be made by the Lord Chancellor, with the Advice and Assistance of the Judge of the High Court of Admiralty of *England*, and, as far as they relate to Fees, or to the Receipt and Expenditure of and accounting for Money, with the Approval of the Commissioners of Her Majesty's Treasury.

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