

the right cannot be doubted, and that by usage at least, it properly belongs to them, I mean general usage, for there is no instance of the Vice Admirals having received the Droits in this Province.

On the other hand, the right of the Receiver and his agents is equally clear. - The patent to the Commissioners directs that the Droits shall be received by the Vice Admiral, and "other Officers of or belonging to the Admiralty," and every of them respectively. It speaks afterwards of Vice Admirals, or other collectors, receivers, or any Commissioners authorized by the court of Admiralty, as you the said Commissioners or any three or more of you shall approve of, and it gives them the power of nominating to all offices and places. It has been the immemorial practice to appoint receivers, and in his commission the receiver is constituted and appointed "to be the Receiver General of the revenue to arise by all or any of the rights and perquisites of Admiralty, and to ask, demand, recover and receive all and all manner of rights, seized and taken in War." In the instructions, enemies ships casually met at sea by non-commissioned vessels are particularly specified.

The Vice Admirals are made accountable to the receiver. In the patent of the Lords Commissioners it is directed that "the Vice Admirals and others shall account for the same Droits unto or before the Commissioners, or such persons as any three or more of them shall appoint." In the 9th Article of the instructions to the receiver, it is thus contained, "You are from time to time to require all our Vice Admirals to give up their accounts of all such Droits, duties and perquisites as they have received, and to acquaint us with any abuses, neglects, corruptions, or encroachments whatever, which you shall find or understand to be committed by any Vice Admiral."

It is clear then, that both Vice Admirals, and the Receiver General, have each an original and immediate power and authority to demand and receive Droits, from all persons whatever; and that there is no reservation of the rights of the Vice Admiral in exclusion of that of the Receiver, but that the Vice Admirals are accountable to the receiver.

Both then being invested with the same power, and by the same authority, how is the court to proceed upon these hostile, and unreconcilable applications?

I shall first proceed upon the supposition that both parties are invested with the full powers, the one of a Vice Admiral, and the other of the Receiver General.

Since then both these commissions issue from the same authority, and both on the same terms, namely, during pleasure; the powers given in either commission may undoubtedly be revoked by express words, by the same authority which conferred them. It is equally evident that there may be a tacit revocation, where it is impossible that both can be executed, or take effect, and therefore that one