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RULES, ORDERS, AND REGULATIONS

TOUCHING THE PRACTICE TO BE OBSERVED

IN

COURTS OF VICE-ADMIRALTY

A B R O A D

IN PROCEEDINGS INSTITUTED ON BEHALF OF

HER MAJESTY'S SHIPS,

Established by Her Majesty's Order in Council bearing Date the 22nd Day of October 1859.



LONDON :

PRINTED BY GEORGE EDWARD EYRE AND WILLIAM SPOTTISWOODE,
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.

FOR HER MAJESTY'S STATIONERY OFFICE.

1859.

WHEREAS by an Act passed in the Second Year of the Reign of His late Majesty King William IV., intituled *An Act to regulate the Practice and Fees in the Vice-Admiralty Courts abroad, and to obviate Doubts as to their Jurisdiction*, Her Majesty is empowered to make such Rules and Regulations for the said Vice-Admiralty Courts, and to alter them from time to time as may be found expedient ; and whereas by an Act passed in the Seventeenth Year of Her present Majesty's reign, intituled the "Navy Pay and Prize Act, 1854," it is further enacted, that "The Lords of the Admiralty may from time to time make such Rules, Orders, and Regulations as may to them appear expedient for distributing the Proceeds of any Prize, or any Bounty, Salvage, or other monies, and for keeping the Accounts and Expenses in relation thereto ; provided always, that such Rules, Orders, and Regulations shall not have any force or effect until they have been previously approved by Her Majesty in Council;" and whereas by an Order in Council bearing date the 22nd day of October 1859, certain Rules, Orders, and Regulations for the several Courts of Vice-Admiralty abroad, touching the practice to be observed in the said Courts in proceedings instituted on behalf of Her Majesty's Ships, and as to the Costs incurred in such Proceedings, and for securing the transfer to the account of Her Majesty's Paymaster General on account of Naval Prize of the proceeds of any Prizes which may be condemned in the said Vice-Admiralty Courts to any of Her Majesty's Ships ; We, therefore, send you herewith a copy of the aforesaid Order in Council, and the Rules, Orders, and Regulations thereby established ; and We hereby desire and direct you to act in accordance with and to be guided by such Order in Council, Rules, Orders, and Regulations in all matters to which they relate.

(Signed) SOMERSET.
R. S. DUNDAS.
FRED. T. PELHAM.
CHARLES EDEN.
CHARLES FREDERICK.

*To the Vice-Admirals, Judges, and
other Officers and Practitioners in
the several Vice-Admiralty Courts
abroad.*

By Command of their Lordships,
(Signed) W. G. ROMAINE.

At the Court at Windsor, the 22nd day of October 1859;

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS there was this day read at the Board a Memorial from the Right Honourable the Lords Commissioners of the Admiralty, dated the 6th of October 1859, in the words following, viz. :—

Whereas by an Act passed in the second year of the reign of His late Majesty King William the Fourth, intituled “ An Act to regulate the Practice and Fees in the Vice-Admiralty Courts abroad, and to obviate Doubts as to their Jurisdiction,” it is, amongst other things, enacted, “ that it shall be lawful for His Majesty, with the advice of His Privy Council, from time to time to make and ordain such Rules and Regulations as shall be deemed expedient touching the Practice to be observed in Suits and Proceedings in the several Courts of Vice-Admiralty at present or hereafter to be established in any of His Majesty's Possessions abroad, and also from time to time, as shall be found expedient, to alter any such Rules and Regulations, and to make any new Regulations :”

And whereas by an Act passed in the seventeenth year of Your Majesty's Reign, intituled the “ Navy Pay and Prize Act, 1854,” it is further enacted, that “ the Lords of the Admiralty may from time to time make such Rules, Orders, and Regulations as may to them appear expedient for distributing the proceeds of any Prize, or any Bounty, Salvage, or other monies, and for keeping the accounts and expenses in relation thereto ; provided always, that such Rules, Orders, and Regulations shall not have any force or effect until they have been previously approved by Her Majesty in Council :”

And whereas it is expedient to make Rules and Regulations touching the Practice to be observed in the several Vice-Admiralty Courts abroad in Proceedings instituted on behalf of Your Majesty's Ships and Vessels of War, and as to the Costs incurred in such Proceedings, and for securing the transfer to the account of Your Majesty's Paymaster-General at the Bank of England on account of Naval Prize of the proceeds of any Prizes which may be condemned in the said Vice-Admiralty Courts to any of Your Majesty's Ships and Vessels of War :

Now, therefore, we, Your Majesty's Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, do submit

for Your Majesty's approval, and do, so far as we may or can, make the following Rules, Orders, and Regulations touching and concerning the said matters :—

I. Whenever any Ship, Vessel, Goods, or Merchandize has or have been detained or captured by any of Your Majesty's Ships or Vessels of War, and it has been determined to send the same before some Vice-Admiralty Court for adjudication, the Commanding Officer of the capturing Ship shall deliver to the Officer who may be sent in charge of the Prize an authority to institute the necessary proceedings, and such authority shall be in the terms or to the effect contained in the Exhibit hereto annexed marked No. I.

II. The Officer to whom such authority is given shall, upon his arrival in Port, or the Commanding Officer shall himself, if in Port, deliver the said authority to the Queen's Proctor in the Colony, or in his absence, or on his refusal or default to institute proceedings, to any other Proctor in the said Colony; and such Proctor may thereupon institute the necessary proceedings against the said Prize, with a view to her condemnation.

III. At the termination of the proceedings the Proctor who shall have conducted the suit on behalf of the Queen's Ship shall submit his costs, as also any charges which may have been paid by him, and which are properly chargeable against the said Prize, including the expenses, if any, attending the maintenance and conveyance of the Prize Officer and Crew, for taxation; and the Registrar of the Court, after having carefully examined them, shall report to the Court the amount at which such costs, charges, and expenses ought to be allowed.

IV. Should the Prize be condemned, then, if the proceeds arising from the sale thereof are sufficient, the Court may order payment of the sum at which the said costs, charges, and expenses have been taxed to be made out of the said proceeds, and the balance of such proceeds shall be forthwith paid to the senior Commissariat Officer at the place, in order that the same may be remitted to this country, in accordance with the provisions of the Act of the 17th Victoria, cap. 19.

V. But if the proceeds shall be insufficient to pay the amount at which the said costs, charges, and expenses have been taxed, the Court may order the whole of the said proceeds to be paid in part satisfaction thereof; and the said Proctor may then draw on the Accountant-General of the Navy a bill, at thirty days after sight, for the balance remaining unpaid, and shall transmit with such bill the authority above mentioned from the Commanding Officer of the capturing Vessel for instituting proceedings against the said Prize.

VI. If, however, there shall be no proceeds, or if the Prize against which proceedings have been instituted has been decreed to be restored, the Proctor may draw upon the Accountant-General of the Navy a bill at thirty days after sight for the whole amount at which the said costs, charges, and expenses have been taxed and allowed by the Court, and shall transmit with the said bill the authority from

the Commanding Officer of the capturing Ship, authorizing him to institute proceedings against the said Prize.

VII. The Registrar of the said Court shall, as soon as possible after the said costs are taxed, and *before* the Proctor has drawn upon the Accountant-General of the Navy for the amount which may be due to him, transmit the account of the said costs, charges, and expenses in original, signed by himself and the Judge of the said Court, to the Registrar of the High Court of Admiralty of England, accompanied with a certificate stating the amount at which it has been taxed, whether the whole or what part thereof has been paid, and whether any and what part remains due, and for which the Proctor may draw upon the Accountant-General of the Navy, and if the proceedings have not been conducted by the Queen's Proctor, whether that officer has declined or refused to conduct them, and on what grounds.

VIII. The Accountant-General of the Navy shall, upon any such bill as aforesaid being presented to him for payment, forward to the Registrar of the High Court of Admiralty a statement showing the amount for which the bill is drawn, the name and description of the person by whom it is drawn, and the Prize in respect of which the same is payable, and the Registrar shall thereupon inform the Accountant-General whether the amount for which the bill is drawn agrees with the account received by him from the Registrar of the Vice-Admiralty Court, and whether there is any reason why the said bill should not be accepted and paid.

IX. Upon receiving the reply of the Registrar of the High Court of Admiralty, the Accountant-General of the Navy may accept the said bill, in whole or in part, to the extent of the amount which may appear to be properly due, and shall, if a condemnation has taken place, debit such amount against the Prize in respect of which the said costs, charges, and expenses have been incurred; and the bounties or other monies which have been or may thereafter be paid to the Naval-Prize Account in respect of the said Prize shall be applied, so far as they will extend, towards the reimbursement of the said amount.

X. But if there should be no such bounties or other monies, or if the bounties and other monies should be insufficient for the purpose, the amount which remains unsatisfied shall be placed to the debit of the Commanding Officer of the Ship of War who authorized the seizure, and shall be charged against any prize money or pay which may be or become due to him, unless the Commissioners for executing the office of Lord High Admiral for the time being shall think proper to relieve him from the payment thereof.

XI. The Registrar of each Vice-Admiralty Court shall transmit at the end of each quarter to the Registrar of the High Court of Admiralty a return of all the Prizes in respect of which any proceedings have been taken during the said quarter, in the Form hereto annexed, marked No. 2., showing the name of the Prize, the names of the capturing Ship and of its Commanding Officer, the date of the adjudi-

Her Majesty, having taken the said Memorial into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof, and of the Rules, Orders, and Regulations therein contained, and also of the "Exhibit" and "Form" thereunto annexed. And the Right Honourable the Lords Commissioners of the Admiralty are to give the necessary directions herein accordingly.

(Signed) WM. L. BATHURST.
