

cise, or in gain by money at interest or otherwise, such list shall be a rule for such person's proportion to the tax, which the assessors may not exceed,

Provided, nevertheless,

[SECT. 11.] That nothing in this act shall extend or be construed to extend so as to require any assessors to assess any person or persons, not belonging to this colony, in the service of the United Colonies, who may be found resident in any town in this colony, either for their polls, or the rateable estate, real or personal, which they had in their possession on the said first day of September by virtue of any commission, office or employment of the United Colonies, or the particular service of this colony or any persons belonging to this colony, for any estate, real or personal, occupied or possessed by him or them to the use of this colony by virtue of any order or appointment of the Congress, or general court, or any committee of correspondence or inspection, or selectmen of any town. [*Passed October 31.**]

CHAPTER 7.

AN ACT FOR ENCOURAGING THE FIXING OUT OF ARMED VESSEL[L]S
TO DEFEND THE SEA-COAST OF AMERICA, AND FOR ERECTING A
COURT TO TRY AND CONDEMN ALL VESSEL[L]S THAT SHALL BE
FOUND INFESTING THE SAME.

Preamble.

WHEREAS the present administration of Great Britain, being divested of justice and humanity, and strangers to that magnanimity and sacred regard for liberty which inspired their venerable predecessors, have been endeavouring, thro' [*ugh*] a series of years, to establish a system of despotism over the American colonies, and by their venal and corrupt measures have so extended their influence over the British parliament that, by a prostituted majority, it is now become a political engine of slavery; *and whereas* the military tools of these our unnatural enemies, while restrained by the united forces of the American colonies from proceeding in their sanguinary career of devastation and slaughter, are infesting the sea-coast[s] with armed vessel[l]s, and daily endeavouring to distress the inhabitants by burning their towns and destroying their dwellings, with their substance, plundering live stock and making captures of provision, and other vessel[l]s, being the property of said inhabitants; *and whereas* their majesties, King William and Queen Mary, by the royal charter of this colony, for themselves, their heirs and successors, did grant, establish and ordain that, in the absence of the governor and lieutenant-governor of the colony, a majority of the council shall have full power, by themselves, or by any chief commander or other officer or officers, to be appointed by them, from time to time, for the special defence of their said province or territory, to assemble in martial array, and put in warlike posture, the inhabitants of their said province or territory, and to lead and conduct them, and with them to encounter, expulse, resist and pursue, by force of arms, as well by sea,

* Signed November 1, according to the record.

as by land, within or without the limits of their said province or territory; and also to kill, slay, destroy, and conquer, by all fitting ways, enterprizes and means, whatsoever, all and every such person and persons as should at any time thereafter attempt or enterprize the destruction, invasion, detriment or annoyance of their said province or territory; and to take and surprize by all ways and means whatsoever, all and every person and persons, with their ships, arms, ammunition and other goods, as should in a hostile manner invade or attempt the invading, conquering or annoying, of their said province or territory; *and whereas* it is expressly resolved by the grand Congress of America, "That each colony, at their own expence, make such provision, by armed vessel[1]s or otherwise, as their respective assemblies, conventions or committees of safety shall judge expedient and suitable to their circumstances and situations, for the protection of their harbours, and navigation on the sea-coasts, against all unlawful invasions, attacks and depr[a][e]dations from cutters and ships of war," and it is the duty and interest of this colony to exert itself, as well for the purpose of keeping supplies from the enemy as for those mentioned in the paragraphs* of the charter and resolve now recited; therefore, for the more effectually carrying into execution the pur[poses aforesai*]d, —

Be it enacted by the Council and House of Representatives in General Court assembled, and by the authority [of] the same,*

[SECT. 1.] That all armed and other vessel[1]s which shall be brought into this colony, and have been found making unlawful [i*]nvasions, attacks or depredations on the sea-coasts or navigation of any part of America, — or improved in supplying the fleet and army which have been, or shall at any time be, employed against the United Colonies, or employed by the said enemy in any respect whatsoever, and also all vessel[1]s whose masters or supercargo[e]s shall have had designs of carrying supplies of any kind to the enemy, or that shall be returning from the enemy after having carried such supplies, — and shall be convicted thereof as is herein provided, such vessel[1] or vessel[1]s, with their appurtenances and cargoes, shall be deemed forfeited, and shall be disposed of, as is by this act hereafter ordered and directed.

All vessels taken in the employ of the enemy, to be decreed forfeited.

And be it further enacted by the authority aforesaid,

[SECT. 2.] That the council of this colony, or the major part of them, shall be fully impowered to commission, with letters of marque and reprisal, any person or persons within this colony, who shall, at his or their own expence, fix out and equip, for the defence of America, any vessel[1], as also any person who shall, by the owner of such vessel[1], be recommended therefor; and that all such persons so commissioned, as aforesaid, shall have full power, with such other persons as they shall engage to their assistance, to sail on the seas, attack, take and bring into any port in this colony, all vessel[1]s offending or employed by the enemy, as aforesaid, and also to retake and bring in, as aforesaid, any vessel[1] or vessel[1]s that may be taken from any person or persons by said enemy.

The major part of the council to commission the masters of vessels employed in defence of America;

Provided, always, —

And be it further enacted,

[SECT. 3.] That the master or owner of such vessel[1] shall, at the time he receives such commission, enter into bond, with one sufficient surety, at least, for the faithful discharge of his office, and

—they giving bond.

observing the law of this colony relating to armed vessel[1]s: which bond shall be in the form following; viz^[1], —

Form. Know all men by these presents that we, A. B. and C. D., of _____, &c., are holden, and stand firmly bound and obliged, unto the treasurer and receiver-general of the colony aforesaid, in the full and just sum of [five thousand pounds], to be paid unto the said treasurer and receiver-general, or to his successor in said office; to the true payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Condition of the bond. Sealed with our seals the _____ day of _____, Anno Dom[ini], 17 ____ . The condition of the afore[mentioned] [written] obligation is such that, whereas the said A. B. hath, on the day of the date hereof, received a commission to command an armed vessel[1] called the _____, burthen about _____ tons, to make reprisals of all armed and other vessel[1]s that shall be found supplying the enemy, or acting counter to a law of this colony, entitled "An Act for encouraging the fixing out of armed vessel[1]s to defend the sea-coasts of America and for erecting a court to try and condemn all vessel[1]s that shall be found infesting the same;" if, therefore, the said A. B. shall and do, in and by all things, well and truly observe and fulfil[1] such instructions as he shall receive from the council of this colony, and shall, in all respects, conform himself to the directions given in and by the act aforesaid, then the aforewritten obligation [to] be void: otherwise to remain in full force.

And be it further enacted,

Court of admiralty to be at Plymouth. [SECT. 4.] That there shall be erected and constantly held in the town of Plymouth, in the county of Plymouth, [a*] court of justice, by such able and discreet person as shall be appointed and commissioned by the major part of the council for that purpose, whose business it shall be to take cognizance of, and try the justice of, any capture or captures of any vessel[1] or vessel[1]s that may or shall be taken by any person or persons whomsoever, and brought into either of the counties of Plymouth, Barnstable, Bristol, Nantucket or Dukes County; and the judge so commissioned to hold said court, as aforesaid, shall have power at all times to issue his warrant or warrants, to the constable or constables, of any town or towns within the said counties of Plymouth, Barnstable, Bristol, Dukes County or Nantucket, or either of them, directing the said constable or constables, to warn a meeting of the inhabitants of their towns, respectively, and to draw out of the box, in such manner as is provided by the laws of this colony for returning jurors to serve in the inferior court of common pleas, so many good and lawful men, for jurors, as said judge shall, in his s[ai]d warrant, order and direct, not exceeding the number of twelve; and the said constables shall immediately, as soon as may be, give notice, in writing, to such persons so drawn, of the time and place which in the said warrant shall be set for their appearance; and shall return said warrant, with his doings thereon, to said judge, at or before the time set therein for the appearance of said jurors.

And be it further enacted,

Penalties for constables and jurors who neglect their duty. [SECT. 5.] That if any constable within said counties shall neglect or refuse to obey the warrant of the judge, for returning said jurors as aforesaid, he shall pay such fine as the said judge shall order, not exceeding the sum of forty shillings; and if any juror so drawn, and having notice as aforesaid, shall not appear at the time

* Engrossment mutilated.

and place directed in such warrant, or shall refuse, without reasonable excuse, to serve on such jury, he shall pay such fine as the judge shall order, not exceeding the sum of forty shillings; but before such fine shall be awarded, the said judge shall summon such jurym[a][e]n to appear before him, to shew forth the reasons of his neglect, and if such reasons shall not be satisfactory to the said judge, then he, the said judge, shall issue his warrant[s] of distress, for such fine, in manner as is directed for recovery of fines of jurors who shall neglect or refuse to serve in the inferior court of common pleas; which fines so recovered shall be paid into the treasury of this colony.

And be it further enacted by the authority aforesaid,

[SECT. 6.] That there shall be held, in like manner, in the town of Ipswich, in the county of Essex, one other court of justice, by such able and discreet person as the major part of the council shall appoint and commission thereto; which judge shall have full cognizance of, and power to try the justice of, the capture of any vessel[1] or vessel[1]s that shall be taken, as aforesaid, and brought into any port in the counties of Suffolk, Middlesex or Essex; and shall have the like power to issue his warrant or warrants for jurors, in said counties, as is before provided for the judge of the count[ies][y] first mentioned; and every constable and juror within the said counties of Suffolk, Middlesex and Essex, who shall neglect to pay due obedience to said warrants, shall be liable to the same penalties as are provided, by this act, against those in like manner offending in the counties of Plymouth, Barnstable, Bristol, Nantucket and Dukes County.

A like court to be held at Ipswich.

And be it further enacted by the authority aforesaid,

[SECT. 7.] That there shall be held, in like manner, in North Yarmouth, in the county of Cumberland, one other court of justice, by such person as the major part of the council shall commissionate to be judge thereof; which judge shall have full cognizance of, and power to try the justice of, all captures of vessel[1]s that shall be taken as aforesaid, and brought into any port in either of the counties of York, Cumberland or Lincoln; and shall have such power to issue a warrant or warrants in said counties as is provided in this act for the other judges aforementioned in the counties of their respective jurisdiction; and the constables and jurors in the said counties of York, Cumberland and Lincoln, are to pay strict obedience to said warrants, under the penalties before in this act provided for like offences in the other counties aforementioned.

A like court to be held at North Yarmouth.

And be it further enacted by the authority aforesaid,

[SECT. 8.] That when any person or persons shall take and bring into any port in this colony any vessel[1] or vessel[1]s that have been offending or employed by the enemy, as aforesaid, such person or persons so taking and bringing in such vessel[1] shall immediately make out a bill, in writing, therein giving a full and ample account of the time and manner of the caption of [such] [said] vessel[1], and the employment she was in when so taken, and of the persons who were aiding and assisting in tak[ing] her, and a schedule of the cargo on board her, to the best of his knowledge, at the time of her caption; and shall deliver the same to the judge who shall have jurisdiction of the port where such vessel[1] is brought, with all the papers that may be found on board such vessel[1], to the intent that the jury may have the benefit of evidence therefrom aris[ing]; and the judge to whom said bill shall be delivered, shall immediately issue his warrant

The form of process in said courts:

or warrants, as aforesaid, to any constable or constables, within the counties of his jurisdiction, commanding them, or either of them, in manner aforesaid, to return twelve good and lawful[1] men to try the truth of any facts alledged in such bill, and if seven of said jurors so returned by said constable or constables, shall appear, and there shall not be enough to compleat a pannel of twelve, or if there shall be a legal challenge to any of them so that there shall be seven, and not a pannel to try such cause, then in such case it shall be lawful for said judge to order the sher[r]iff or other proper officer attending on said court, to fill up the jury with other good and lawful[1] men present, which jury shall, be sworn to return a true verdict upon the said bill, according to law and evidence; and if it shall appear to said judge, by said verdict, that such vessel[1] had been employed or offending as aforesaid, he shall condemn said vessel[1] and cargo and appurtenances, and order them to be sold at public[k] vendue; and shall order the charges of said trial and condemnation to be paid out of the money such vessel[1] and cargo shall sell for, unto the treasury of this colony; and shall order the residue thereof to be delivered to the captors, their agents or attorneys, for the use and benefit of such captors, and others concerned therein; and if two or more vessel[1]s, the commanders whereof shall be properly commissioned, shall jointly take such vessel[1], the money she and her cargo and appurtenances shall sell for, after payment of charges as aforesaid, shall be divided between the captors, in proportion to their men. And the said judge, before whom any such trial and condemnation as is aforementioned may be, shall be authori[z]ed to make out his precept, under his hand and seal, to either of the sher[r]iffs within his jurisdiction, to sell such vessel[1] and appurtenances and cargo, and to pay thereout the charges of trial and condemnation, into the treasury of this colony, and to pay his own fees, and to deliver the residue to the captors and persons concerned as aforesaid.

—and disposition of the captures.

And be it further enacted,

Fees to be allowed to the judge, jurors and sheriffs, of said courts.

[SECT. 9.] That there shall be paid to the justice, jurors and sher[r]iffs, out of the public treasury, such fees as are or shall hereafter be established, by law, to each and every the officers of the said court.

And be it further enacted by the authority aforesaid,

Fifteen days notice to be given by the judge, before trial.

[SECT. 10.] That when any such bill shall be delivered to such judge, he shall cause notification thereof, and the name, if known, and description of the vessel[1] so brought in, with the day set for the trial thereon, to be adverti[z]ed in the several papers printed at Watertown and Cambridge, fifteen days before the time set for the trial, that the owner of such vessel[1], or any person concerned, may appear and shew cause, if any they have, why such vessel[1], with her cargo and appurtenances, should not be condemned [and sold], as aforesaid.

And be it further enacted,

Form of process on vessels retaken from the enemy.

[SECT. 11.] That the process and proceeding upon any vessel[1], that shall be retaken from the enemy by any person or persons, shall be in the same manner as is herein provided for other vessel[1]s; and if, by verdict of the jury, it shall appear to the judge that such vessel[1] was taken by the enemy, and was retaken by such person or persons before condemnation by the said enemy thereon had, the said judge shall order such vessel[1], with her cargo and appurtenances, to

be sold in manner aforesaid; and shall order not more than one-third, nor less than one-quarter, of what she shall sell for (after paying charges of trial and sale), to be delivered to the captors, as is before provided for other vessel[1]s, and the residue to be delivered to the owner or owners of such vessel[1]; and if such vessel[1] so retaken shall have been condemned by the enemy, then the money she and her cargo and appurtenances may sell for shall be delivered to the captors, as is above provided for vessel[1]s belonging to the said enemy.

And be it further enacted by the authority aforesaid,

[SECT. 12.] That each judge of such courts shall appoint an able clerk, who shall keep a true and fair record of all the proceedings of said court, and shall be duly sworn to act in said office with truth and fidelity; and his attestations shall be received as evidence in all courts of law. [*Passed November 1.*]

The judge to
appoint a clerk.

CHAPTER 8.

AN ACT IMPOWERING THE COURTS OF GENERAL SESSIONS OF THE PEACE WITHIN THIS COLONY TO GRANT LICENCES TO INNOLDERS AND RETAILERS, IN CERTAIN CASES.

WHEREAS among many other mischiefs and embarras[s]ments which have been brought upon this colony by means of several grievous and oppressive acts of parliament, lately passed, a suspension of the courts of general sessions of the peace has taken place in several counties, whereby a great number of innholders and retailers have been deprived of an opportunity of renewing their licences; for the removal of which inconvenience as soon as may be, —

Preamble.

Be it enacted by the Council and House of Representatives in General Court assembled, and by the authority of the same,

That the several courts of general sessions of the peace in each and every county [in this colony], who have in any measure been interrupted in their proceedings as aforesaid, or have omitted granting licences as usual, be, and they hereby are, authorized and empowered, at their first sessions hereafter to be held, respectively, to grant licences to innholders and retailers of spiritous liquors, or common victuallers, to exercise their respective callings for and during the remainder of the year, or until[1] the term at which, by law, they are authorized to grant licences, observing the rules and directions of the law in such cases made and provided; any law, usage or custom to the contrary notwithstanding. [*Passed November 1.*]

Courts of sessions to grant licenses, as usual, for the remainder of the year.