

to forward a new Commission of Sale to Mr. Clarke who had then returned from Halifax, with directions to him not to strike off the timber in any event for less than four shillings per ton, which price at least I had certain information that it would bring. And this I ventured to do without waiting for your instructions on the subject, as the opportunity by which I was to write would not admit of this delay, and good opportunities to that remote part of the Province very rarely occur. The result has justified this proceeding, as the timber at the second sale sold for five shillings per ton, which I am told is considered to be a fair price for timber lying in the woods in the part of the Country & situation in which this was. The amount of sales £37.0.0. was duly returned by the Deputy Marshal into Court, and after deducting therefrom the whole amount of costs & expences, as moderated & allowed by the Judge, there remains a balance of £9.19.9. which is lodged in the Registry of the Court to abide the further order of the same thereon.

Against the timber seized by Colonel Hatch in the County of Charlotte, consisting altogether of forty eight sticks, a Decree of Condemnation & sale passed also by default on the 30th November last, and a Commission of Sale was thereon immediately forwarded to the Deputy Marshal of the Admiralty in that District. To this Commission no regular return has yet been made, but I am informed that the timber has been sold under the Commission, and that through the great exertions of Col. Hatch, the sales will amount to £19. or upwards, and even this sum will probably fall considerably short of the expences of the prosecution.

The Statute of 8 Geo. 1. c. 12. § 5th, under which these prosecutions have been instituted, prescribes no distribution or application of the proceeds of the timber directed therein to be seized & forfeited to His Majesty's use, as it does of the personal penalties & forfeitures which it contains: nor does it indeed in express terms give the Courts of Admiralty juris-

isdiction over such seizures as it does in the case of the personal penalties & forfeitures. The jurisdiction of the Court of Admiralty in such cases of seizure, has been sustained here principally under the authority of the decided opinion given by the Crown Lawyers in England on the subject, but it may be a question whether that construction of the Statute, which extends over the seizures made in pursuance of it, the same jurisdiction which it expressly prescribes with respect to the personal penalties & forfeitures, would also make the same distribution of the proceeds of such seizures as the Statute ~~in fact~~ does of the personal penalties & forfeitures. And if the matter were thought of sufficient importance, perhaps all such doubts would best be quieted by some farther Parliamentary declaration on the subject.

I have the honor to be,
With great respect, Sir,
Your most obedient &
very humble servant
Wm. H. Missenden Junr.
Advocate General.

To The Honourable Edward Winslow Esq.