

Absent Jurors, on proof of having been duly summoned, to be fined.

Amount.

Recovery.

Act not to repeal the fifth section of 6 Wm. 4, c. 47, but extended to Jurors summoned by virtue thereof.

Provisions of 26 G. 3, c. 6, to remain in force, except so far as altered or repealed.

Commencement of Act.

III. ' And whereas much delay and obstruction have occurred in the administration of Justice, for the default of Jurors in attendance, in some of the Circuits in this Province; and it is deemed necessary to increase the Fines for such delinquency; Be it enacted, That every person who may be duly summoned to attend as a Petit Juror at any Court of Oyer and Terminer, and who shall not appear when called upon the trial of any Criminal cause in such Court, or upon the trial of any Civil cause at Nisi Prius, shall on due proof being made by oath or affidavit of the summoning Officer that such person hath been lawfully summoned, forfeit and pay for the first default any sum not exceeding ten shillings, and for every subsequent default any sum not exceeding five shillings as the presiding Judge at such Court shall think reasonable to inflict or assess, unless some sufficient cause of his absence be assigned and proved to the satisfaction of such Judge: Provided always, that the amount of the said fines, to be levied on each Juryman for the several defaults at any one Court, shall not exceed the sum of five pounds; such fines so inflicted as aforesaid to be levied and collected under and by virtue of the Laws now in force for the recovery of fines imposed on Jurors and Officers attending the Courts of Justice in this Province, and subject to the provisions therein contained.

IV. And be it enacted, That nothing in this Act contained shall be deemed or taken to repeal the fifth section of an Act made and passed in the sixth year of the Reign of King William the Fourth, intituled "An Act in addition to an Act for regulating Juries, and declaring the qualification of Jurors," but the provisions in this Act contained in regard to fines to be imposed on delinquent Jurors, shall extend and be construed to apply to Jurors summoned under and by virtue of the said section of the said recited Act.

V. And be it enacted, That all the provisions of the Act passed in the twenty sixth year of the Reign of His late Majesty King George the Third, intituled "An Act for regulating Juries and declaring the qualifications of Jurors," shall continue and remain in full force and effect, excepting so far as the same may have been altered or repealed by this Act, or by any other Act of Assembly now in force.

VI. And be it enacted, That this Act shall commence and take effect on the first day of June one thousand eight hundred and forty one.

CAP. II.

An Act in addition to the Acts relating to Circuit Courts.

Passed 19th March 1841.

Preamble. Recites an adjournment of the Saint John Circuit Court and Court of Oyer and Terminer and General Gaol Delivery.

WHEREAS in consequence of the great quantity of business at the Circuit Court and Court of Oyer and Terminer and General Gaol Delivery holden in and for the City and County of Saint John on the second Tuesday in January in the present year, it became impossible to finish the same before the Hilary Term of the Supreme Court then next following and now past; and such Circuit Court and Court of Oyer and Terminer and General Gaol Delivery, were on Saturday the thirtieth day of January last adjourned to the second Tuesday in April next: And whereas doubts may arise as to the validity of such adjournment: And whereas it is expedient to provide for similar adjournments in future;

Adjournment deemed valid, notwithstanding a Term of the Supreme Court intervenes.

I. Be it declared and enacted by the Lieutenant Governor, Legislative Council and Assembly, That such adjournment of the said Courts is and shall be deemed to be good, valid and effectual, notwithstanding a Term of the Supreme Court intervenes; and the business of the said Courts shall be proceeded in and finished upon and after the said second Tuesday in April next in the usual manner.

II.

a) Act referred to 16 G. 3. c. 8 - 5th Wm 4. c. 37 - & the acts then referred to

II. And be it declared and enacted, That it is and shall be lawful for the presiding Judge at any Circuit Court or Court of Nisi Prius, as well as any Court of Oyer and Terminer and General Gaol Delivery, to adjourn the same to any future day, whenever such adjournment may seem to him necessary or proper, in order to the finishing of the business before any such Court or Courts, notwithstanding any Term of the Supreme Court may intervene between the time of adjournment and that to which such adjournment may be made: Provided always, that no such adjourned Court of Oyer and Terminer and General Gaol Delivery shall extend beyond the time to which such Courts are limited in and by the Commission or Letters Patent under which the same are held.

Courts may be adjourned, notwithstanding the intervening of a Term of the Supreme Court, when such adjournment is necessary to the finishing of the business.

III. And be it declared and enacted, That the Grand Jury and Petit Jury in attendance on such Courts respectively, shall re-assemble and attend at any such adjourned Court, if thereto required by the presiding Judge at the time of such adjournment, and shall be liable to the like pains and penalties for non-appearance and non-attendance, and for any misdemeanor or default, as such Jurors are by Law liable to in any Circuit Court or Court of Oyer and Terminer and General Gaol Delivery.

Juries to re-assemble when thereto required by the Judge.

Use the Warrants by 12th Vis Cap 41

IV. And be it enacted, That it shall be lawful for any two Justices of the Supreme Court to issue their precept to the Sheriff of any County or City and County wherein any such adjourned Court is to be held for the summoning of a new Grand Jury or a new Petit Jury, which new Petit Jury may consist of any number authorized by Law to be summoned for any Circuit Court or Court of Oyer and Terminer and General Gaol Delivery; and every such Sheriff shall obey such precept and render due return thereto; and the Petit Jurors so summoned shall form the Juries for the trial of causes both Criminal and Civil at such adjourned Court, and shall be subject to the arrangements and regulations respecting the number required to be in daily attendance, authorized by Law in any such Circuit Court or Court of Oyer and Terminer and General Gaol Delivery: and the presiding Judge at any such adjourned Court may also, if need be, issue a precept for a second Jury according to the provisions of an Act made and passed in the sixth year of the Reign of His late Majesty King William the Fourth, intituled "An Act in addition to an Act for regulating Juries, and declaring the qualification of Jurors;" the day for the appearance of such second Jury not to be earlier than the sixth day after the day on which such adjourned Court may be opened.

Precepts may be issued for summoning new Juries for adjourned Courts;

As also, if need be, for a second Jury, under Act 6 W. 4. c. 47.

V. And be it enacted, That all Jurors duly summoned, and the respective Sheriffs, Coroners, Bailiffs, Constables and Officers, and Ministers of the Law in the City and County of Saint John, or any other County where any such adjourned Court may be held, and also all parties and witnesses, both in Criminal and Civil cases, shall give their attendance at such adjourned Court, and shall be charged and bound in the like manner, and upon like pains and penalties for non-appearance and non-attendance, or for any misdemeanor or default at such adjourned Court, as at any Circuit Court or Court of Oyer and Terminer and General Gaol Delivery: Provided always, that no witness in any civil cause for trial at any such adjourned Court shall be liable to be proceeded against in any manner for non-attendance, unless duly served with a subpoena to attend at such adjourned Court, and his expenses thereupon are duly paid or tendered in the usual manner.

Jurors, Sheriffs, &c. parties and witnesses to give their attendance at adjourned Courts.

Liability of Witnesses for non-attendance at adjourned Courts.

VI. And be it enacted, That in all causes which may stand for trial at any such adjourned Court, the Nisi Prius Record, Jury Process, and Postea, shall be deemed, taken and dealt with in all respects as if the same were expressed to be returnable at the Term of the Supreme Court next following such adjourned

Return of Nisi Prius record, Jury Process and Postea, in causes for trial at the adjourned Court.

Court:

Court: Provided always, that no new notice of trial shall be necessary in any such cause, and that no new cause shall be entered for trial at any such adjourned Court.

CAP. III.

An Act relating to the Parish Church of the Parish of Portland, in the County of Saint John, and to the Church Corporation of the said Parish.

Passed 19th March 1841.

Preamble.
6 W. 4, c. 3.

WHEREAS in and by an Act made and passed in the sixth year of the Reign of His Majesty King William the Fourth, intituled "An Act to regulate the election of Church Wardens and Vestrymen in the Parish of Portland, in the County of Saint John; and to extend such regulations to other Parishes where the sittings in the Church may be free and open," it was enacted, "That the Church Wardens and Vestry of the said Church so soon as they might be duly elected and chosen, pursuant to the provisions of the said Act, together with the Rector of the said Church for the time being, and their respective Successors, for ever, should be a body Politic and Corporate in deed and name, and should have succession for ever, by the name of the Rector, Church Wardens and Vestry of Grace Church in the Parish of Portland," and it is also further enacted, "That Grace Church should be deemed and taken to be the Parish Church of the said Parish of Portland, until the said Rector, Church Wardens and Vestry should have erected another Church instead thereof, and the same should be duly consecrated to that purpose, and opened for Public Worship, according to the Rites and Ceremonies of the Church of England, and in case of the erection of such other Church, all the provisions of the said Act should extend and be construed to extend to the said new Church, in as full and ample a manner as if the same were particularly re-enacted and applied to such new Church:" And whereas since the passing of the said Act, another large and commodious Church has been erected within the said Parish, and has been recently consecrated, and is now used for Public Worship by the name of "Saint Luke's Church," the expense of which has been partly defrayed by private subscription, but it was found necessary, in order to raise sufficient funds for completing the same, and for making a regular provision for the support of the Minister or Rector of the said Parish to dispose of Pews in the said Church, subject to the payment of Annual Rents, as is done in the Parish of Saint John, and in the other Parishes of the Province, reserving however free seats for the accommodation of poor persons to the number of two hundred and fifty at least, in consequence whereof the provisions of the said recited Act have become inapplicable to the said Parish of Portland, and it is expedient that the Parish of Portland and Church Corporation therein be placed on the same footing, and elected in like manner as those in other Parishes: And whereas the Rector, Church Wardens and Vestry of Grace Church, together with many other Parishoners of the said Parish have, by their Petition to the General Assembly prayed, that an Act may pass for the purpose above mentioned, which Petition has received the sanction of the Lord Bishop of the Diocese, and of the Archdeacon of the said Province: And whereas it is expedient that the said recited Act should be repealed;

Act 6 W. 4, c. 3,
repealed:

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the said Act, intituled "An Act to regulate the election of Church