



ANNO DECIMO QUARTO

VICTORIÆ REGINÆ.

CAP. X.

AN ACT to amend the Practice and to fix and establish Terms or Sittings of the Northern and Southern Circuit Courts, and to provide for the appointment of Clerks and Registrars and other Officers in the several Electoral Districts.

[Passed 31st May, 1851.]

WHEREAS it is expedient and necessary to alter the Establishment Preamble. and regulate the Terms and Practice of the Northern and Southern Circuit Courts of this Island :

Be it therefore enacted, by the Governor, Council and Assembly of Newfoundland, in General Assembly convened, That the Northern Judicial District of this Island shall, for the purposes of this Act, be and the same is hereby divided into Four Sections; namely, the Conception Bay Section, the Trinity Section, the Bonavista Section, and the Fogo Section; which said Sections respectively shall be, and the same are hereby declared to be, bounded and limited as the Northern Electoral Districts are now bounded and limited as Electoral Districts; save and except that the Conception Bay Section shall include all that part of the said Northern Judicial District lying between the Southern Gut of Holyrood, and Tickle Harbor Head, in Trinity Bay; and that the Fogo Section shall embrace all that part of the Northern Judicial District, and Islands adjacent thereto, lying between the Northern limit of the Electoral District of Bonavista Bay, and Cape Norman in the Straits of Belle Isle. Northern Judicial District divided into Four Sections.

II.—*And be it further enacted*, That the Southern Judicial District shall be, and the same is, hereby divided into Four Sections, that is to say,—the Ferryland Section, the Saint Mary's and Placentia Section, the Burin Section, and the Fortune Bay Section; which said Sections respectively shall be, and the same are hereby declared to be, limited by those boundaries which now define the Southern Electoral Districts respectively: Southern Judicial District divided into Four Sections.

Provided, that the Island of Oderin, and all other Islands between that

Island and Burin, shall be included in the Burin Section, and not in the Saint Mary's and Placentia Section; and that the Fortune Bay Section shall embrace all that part of the Southern Judicial District, and the Islands adjacent thereto, situate and lying between the Western limits of the Electoral District of Burin and Cape Norman in the Straits of Belle Isle.

Sheriffs of Northern and Southern Districts to appoint Deputies.

III.—*And be it further enacted*, That the Sheriffs for the Northern and Southern Districts respectively shall, and they are hereby required, immediately after the passing of this Act, and from time to time thereafter, to appoint and duly authorize, under their respective Hands and Seals, in each of the Sections aforesaid, a Deputy, for the service and execution of all Writs, Rules, Orders and other Process of the said respective Courts, and of the Supreme Court, within the District to which such Deputy shall be appointed, who shall possess, exercise and discharge therein the same powers and duties as the Sheriff if personally present, and for the acts of which said Deputy the Sheriff shall be responsible during his continuance in Office; and it shall be sufficient in all cases to deliver, or cause to be delivered, any Writ, Rule, Order, or other Process, aforesaid, to the Deputy Sheriff of the Section where the same is required to be executed, without transmitting the same through the Sheriff; and the said respective Sheriffs are hereby required, within One Month after the passing of this Act, to furnish to the Sheriff of the Central District, for the information of all persons requiring the same, the names and additions of the Deputies so to be appointed by them respectively; and from time to time, in like manner, to furnish the names and additions of any further or other Deputies to be appointed by them, within One Month after the appointment of the same respectively; and the Sheriff of the Central District, as well as the Sheriffs of the said Northern and Southern Districts, shall keep hung up in their respective Offices a list of such Persons; and all Writs and other Process issuing out of the said respective Courts shall in future be directed to the Sheriff of the respective Judicial District, his Deputy or Deputies: *Provided*, that no service of any such Writ, Rule, Order, or any other Process, by any one of such Deputies, shall be deemed void by reason of its being served by the Deputy Sheriff of the adjoining Section.

Sheriffs to furnish names of Deputies to Sheriff of Central District.

Proviso.

Governor shall appoint Clerks Assistant.

IV.—*And be it further enacted*, by the authority aforesaid, That it shall and may be lawful for the Governor, or Administrator of the Government for the time being, by Warrant under his Hand and Seal, to appoint a fit and proper Person, in each of the said Sections, to act as Clerk Assistant of the Court or Courts to be holden in such Sections; and the said Clerk Assistant so appointed as aforesaid, shall issue all and every Process required to be issued in such Section, returnable in the said Courts respectively; and shall, within their respective Sections, do and execute all such duties as now appertain to the said Chief Clerks of the Circuit Courts respectively, save and except such duties as appertain to the said Chief Clerks as Registrars of Deeds, and shall keep Books of Entries and faithful Records of all proceedings of every nature whatsoever instituted or done, performed and transacted, in the said Courts respectively; and such Clerks, as aforesaid, shall be entitled to demand and receive, in their said Offices respectively, all such Fees as are now or may hereafter be by law allowed to be received by the Chief Clerk of the Supreme Court of this Island; and the said Clerks Assistant respectively shall have power to take Affidavits in matters pending in the Supreme and Circuit Courts respectively, and to issue process returnable into the said Supreme Court or into the Circuit Court at any place within the same District where the said Court shall be appointed to sit: *Provided always*, that it shall be lawful for the Chief Justice of the Supreme Court, from time to time, as he may deem it necessary, to appoint, in any of the Outports of the several

Duty of Clerks Assistant.

Fees to Clerks Assistant.

Chief Justice may appoint Commissioners for taking Affidavits.

Judicial Districts where sittings of the Courts may not be appointed to be holden, fit and proper persons resident therein, to be and act as Commissioners for taking Affidavits, and issuing Mesne Process, returnable in the Circuit Court for the Judicial District in which such Outports shall be respectively situated.

V.—*And be it further enacted*, That nothing in this Act contained shall be deemed or construed to abolish or discontinue the Offices of Clerks of the Northern and Southern Circuit Courts respectively, or to displace the Persons now filling such Offices, who shall continue to discharge the duties thereof within the boundaries which define the limits of the Conception Bay Section and the Ferryland Section, aforesaid: *Provided*, that the said Clerks shall not be entitled to receive any Fee or Perquisite appertaining to their said Offices other than such as may be payable for duties discharged within the limits of the said last mentioned Sections.

Present offices of Clerks of Northern and Southern Districts not to be abolished.

VI.—*And be it further enacted*, That it shall and may be lawful for the Governor, or Administrator of the Government for the time being, by Warrant under his Hand and Seal, to appoint, in each of the said Sections North of the Conception Bay Section and South of the Ferryland Section, a fit and proper Person to act as Registrar of Deeds; and it shall be the duty of the Registrars so appointed, to register in proper Books to be kept for that purpose, all such Deeds, Conveyances and Assurances, in writing, relating to Lands and Tenements within their respective Sections, as are now, or hereafter may be, by law required to be registered, and to take proof of the due and proper execution of all such Deeds, Conveyances and Assurances, on Oath of the subscribing Witness, or by the acknowledgment of the Party, as the case may be, agreeably to the provisions of any Law that now is, or hereafter may be, in force in this Island regulating the Registration of Deeds; and for such purposes the said Registrars respectively are hereby authorized to administer an Oath or Oaths to the Parties attesting to the due execution of such Deeds, Conveyances and Assurances, and also to demand, take and receive for such duties as may be performed by them, by virtue of their said Offices respectively, all such Fees as are now, or hereafter may be, taken and received by the Registrar of Deeds in the Supreme Court for the Registry of Deeds and other Assurances: *Provided always*, that such Registrars so to be appointed under this Act, and also the Registrars for the Conception Bay and Ferryland Sections, shall transmit, Half-yearly, to the Registrar of Deeds for the Central District, a Docket of all Deeds or other Instruments registered by them in their respective Sections, which Docket shall be open to inspection by any Person desiring the same, on payment to the Registrar of the said Central District the same Fee as would be payable for search and inspection of any Deed registered by him: *Provided also*, that nothing herein contained shall prevent the Governor, or Administrator of the Government, appointing the resident Clerk of the Peace or Stipendiary Magistrate, in any of the Sections aforesaid, to discharge the said Offices of Clerks Assistant and Registrars, or either of them.

Offices of Registry established.

VII.—*And be it further enacted*, That the Proceedings, Form of Process, and Pleadings in all Actions for the recovery of Debts or Sums of Money in the said Circuit Courts, where the Sum sought to be recovered shall not exceed the Sum of Twenty Pounds Sterling, shall be Summary, the same as is now established in the Supreme and Central Circuit Courts under the provisions of the Tenth Section of an Act passed in the Twelfth Year of Her present Majesty, entitled “An Act for the further amendment of the Law, and the better advancement of Justice,” where the Sum does not exceed Ten Pounds Sterling: *Provided*, that in all cases amounting to or exceeding Five Pounds Sterling it shall be lawful for the Plaintiff or Defendant to have a Jury for the trial of such cause; but the Costs

Summary proceedings in matters up to Twenty Pounds.

Proviso.

thereof shall not be allowed unless the Judge who tried the cause shall certify, under his Hand, on the back of the Writ, that there was reasonable cause for taking such Jury: *Provided further*, that in all cases of default in actions arising ex contractu, in which the Sum sought to be recovered shall not exceed Fifty Pounds, the Damages shall be assessed by the Court, in a summary way, subject nevertheless to the option of either Party to have the Damages assessed by Jury, in manner hereinbefore provided.

Petty Jury to receive 18s. in every action.

VIII.—*And be it further enacted*, That upon the trial of every Action by Jury in the said Courts, whether upon Issue Joined or Assessment of Damages, the Petty Jury who try the cause shall be entitled to receive the Sum of Eighteen Shillings Sterling, and no more.

Terms for holding Courts specified.

IX.—*And be it further enacted*, That the said Northern and Southern Circuit Courts, in every year, shall be opened and holden in the Judicial Districts aforesaid, at the following places and times, that is to say;—the said Northern Circuit Court shall be holden in the Conception Bay Section, at Harbor Grace, the Spring Term thereof to commence on the Twentieth day of April, and continue for Twenty-one days, and the Fall Term, in the same place, to commence on the Twenty-seventh day of October, and continue for the like period; in the Fogo Section, at Twillingate, to commence on the Twenty-fifth day of August, and continue for Ten Days; at Fogo, in the same Section, to commence on the Seventh day of September, and continue for Four days; in the Bonavista Section, at Greenspond, to commence on the Fifteenth day of September, and continue for Four days; and at Bonavista in the same Section, to commence on the Twenty-second day of September, and continue for Ten Days; in the Trinity Section, at Trinity, to commence on the Sixth day of October, and continue for Ten days. And the said Southern Circuit Court shall be holden in the Placentia and Saint Mary's Section, at Saint Mary's, to commence on the Second day of September, and continue for Six days, and at Placentia, to commence on the Tenth day of September, and continue for Six days; in the Burin Section, at Burin, to commence on the Eighteenth day of September, and continue for Six days; in the Fortune Bay Section, at Harbor Britain, to commence on the Twenty-sixth day of September, and continue for Six days; and in the Ferryland Section, at Ferryland, to commence on the Tenth day of October, and continue for Seven days. *Provided always*, that should either the first or last days hereinbefore appointed for the sitting of the said Courts in the respective places fall upon a Sunday, the following Monday shall be the first or last day of such Term, as the case may be. *And provided further*, that should either of the Judges appointed to preside in the said respective Courts be unavoidably absent from any of the said places at the times hereinbefore appointed for holding the same, it shall be lawful for the respective Judges, and they are hereby required, to hold Court at any other time or times thereat, and continue the same for the respective periods hereinbefore mentioned.

Proviso.

Proviso.

Courts may extend terms.

X.—*And be it further enacted*, That it shall be lawful for the said respective Courts, (if they shall find it necessary for the dispatch of business therein pending,) to extend the periods hereinbefore appointed for holding Courts at the several Places aforesaid, by adjournment, from day to day, that is to say,—at Harbor Grace, for a period not exceeding Six Days, and at the said other Places for a period not exceeding Three Days; and further, that nothing in this Act contained shall prevent the Governor or Administrator of the Government for the time being, from issuing his Proclamation or Proclamations for holding a Term or Terms of the said respective Courts, at any other Places in the said Districts respectively, as by him shall be deemed advisable.

XI.—*And be it further enacted*, That in Cases commenced by Attachment in the said respective Courts, the Party or Parties, Defendant or Defendants, shall appear and plead to Issue within Two Days after the Return Day, instead of Four Days, as now required by Law; and that in Cases commenced by Capias ad Respondendum, the Defendant or Defendants shall be served with a Copy of the Process—upon which shall be endorsed a Notice of the intent and meaning thereof, and also with a Copy of the Plaintiff's Declaration; and that unless he or they shall appear and plead thereto within Two Days after the Return thereof, whether he or they shall have put in and perfected Bail to the Action, or otherwise, the Plaintiff or Plaintiffs shall be at liberty to Enter an Appearance for such Defendant or Defendants, and sign Judgment for want of a plea: *Provided always*, that nothing herein contained shall be deemed a discharge, or right thereto, of any Prisoner or Prisoners in custody under process aforesaid, or a waiver of the necessity on the part of such Defendant or Defendants for putting in and perfecting bail, as aforesaid: *Provided further*, that in no case pending in the said Courts shall it be required to serve the Defendant or Defendants with notice of Assessment of Damages, but that on the copy of the Writ or other Process to be served on such Defendant or Defendants, notice shall be given him or them that if he or they shall neglect to appear and plead thereto within the time therein limited, the Plaintiff or Plaintiffs will sign Judgment by Default, and proceed to the Assessment of Damages so soon thereafter as the Court can attend to the same, and enter up Final Judgment accordingly.

In attachment and capias defendants to appear and plead in two days.

No notice of assessment of damages need be served after default.

XII.—*And be it further enacted*, That the several Clerks Assistant and Registrars to be appointed under this Act shall reside in the following places, that is to say,—at Twillingate for the Fogo Section, at Bonavista for the Bonavista Section, at Trinity for the Trinity Section, at Harbor Britain for the Fortune Bay Section, at Burin for the Burin Section, and at Saint Mary's or Placentia for the Placentia and Saint Mary's Section; *Provided*, that it shall be incumbent on the present Clerk of the Southern Circuit Court to appoint a Deputy at Ferryland for the Registration of Deeds and Conveyances, and for the discharge of other duties required to be performed by him; and such Deputy shall, in the absence of the said Clerk, possess, exercise and discharge all the powers and duties of the said Clerk.

Residence of Clerks Assistant.

XIII.—*And be it further enacted*, That it shall be lawful for the Chief Clerk of the Supreme Court to take Affidavits in matters pending in the said Northern and Southern Circuit Courts, and also to issue Mesne Process returnable into the said Northern and Southern Circuit Courts, at any place hereinbefore appointed for the sittings of the said Circuit Courts; and the Sheriff of the Central District shall and he is hereby required to transmit Process to the Deputy Sheriffs in the Northern and Southern Districts in like manner as he is now by Law required to transmit such Process to the Sheriffs of the said respective Districts.

Chief Clerk of Supreme Court to administer oaths, and issue process in matters before the Circuit Courts.

Sheriff of Central District to transmit process to Deputies.

XIV.—*And be it further enacted*, That it shall be lawful for the Registrar of Deeds for the Central District to take proof or acknowledgment of the execution, and also to Register any Deed, Will, or other Assurance of Lands and Tenements, situate in the Northern or Southern Districts, which registration shall be as valid and effectual to all intents and purposes as if the same were registered by the Registrar for the Section of the respective District in which the Lands or Tenements shall be situated; and the Registrar of the Central District shall and he is hereby required to transmit, Half-yearly, (and oftener, when convenient opportunities offer,) to the proper Registrar in the said Northern and Southern Districts, an Abstract and Docket of the Registry of all such Deeds, Wills and other Assurances by him registered as aforesaid, to be preserved by such Registrar

Registrar for Central District may take proof of and register deeds of lands in any of the sections;

To transmit, half-yearly to Registrars of sections abstract of deeds registered by him.

Fees upon registration.

for the respective Section aforesaid, and to be open to the inspection of any Person desirous of examining the same, on payment of a Fee of One Shilling; and there shall be paid to the Registrar of the Central District for registering any Deed, Will, Conveyance, or other Assurance, of Lands and Tenements situate in any other District, One-fourth more than would be payable for the registration thereof in the District where the Lands or Tenements may be situate; and Two-fifths of the amount of Fees received by him for such Registration shall be retained by the said Registrar of the Central District, and the remainder be accounted for and paid over by him to the Registrar for the Section in which the Lands and Tenements shall be situate.

Writs of execution upon final judgment obtained in Circuit Courts shall have validity in several districts.

XV.—*And be it enacted*, That whenever any Suitor shall have obtained Final Judgment in any of the Circuit Courts of this Colony, the Writ or Writs of Execution issued thereon by the authority of the said respective Courts, shall have validity in each and every District of the Colony; and the Sheriff to whom the same may be directed shall and may, by himself or his Deputy or Deputies, execute such Writ or Writs, and levy, under and by authority of the same, within his respective District, notwithstanding such Final Judgment shall have been obtained in the Circuit Court of any other District.

Continuance of Act.

XVI.—*And be it further enacted*, That this Act shall continue for One Year, and thence to the end of the then next Session of the Legislature.