

IV.—It shall be lawful for the Sheriffs of the Northern and Southern Districts of this Island, for the purpose of carrying into effect any sentence of Banishment adjudged in the Courts of the said Districts, and when deemed expedient, to remove the Person upon whom such sentence shall have been pronounced, to the Central District, and to deliver such Offender to the Sheriff of the Central District, by whom he shall be committed to Gaol in Saint John's until the sentence of Banishment can be carried into effect.

Offenders sentenced by the Northern and Southern Circ't. Courts to banishment may be removed to St. John's, &c.

CAP. X.

An Act to make provision for the Recovery of Penalties becoming due upon the Forfeiture of certain Recognizances.

[Passed 7th April, 1865.]

WHEREAS it is expedient to make provision for the Recovery of Penalties becoming due upon the Forfeiture of certain Recognizances. Preamble.

Be it therefore enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows :

I.—Whenever any Recognizance returned into or given to any one of the Superior Courts of this Colony shall become forfeited by breach of the condition thereof, it shall be lawful for such Court, by a Rule Nisi, to be made upon sufficient affidavits, shewing the execution and forfeiture of such Recognizance, and to be served upon such of the parties executing the same as shall be within the jurisdiction of the Court, to require such parties to shew cause why the said Recognizance should not be declared to be forfeited, and the

Rule nisi to declare Recognizances forfeited, and further proceedings.

amount of the penalty thereof paid by them ; and thereupon, after hearing the parties to such rule, or such of them as may appear upon the same, to make an order pronouncing such Recognizance forfeited, and directing the payment into Court of the penalty thereof by the parties liable, or discharging such Rule Nisi, as may be lawful in that behalf : Provided that it shall be competent for such Court, upon sufficient special cause, if they shall see fit so to do, to lessen or altogether to remit the amount of such penalty.

Justice may return forfeited Recognizance to Superior Court.

II.—When any Recognizance for the doing or not doing of any matter or thing, other than the appearance of any person before any Superior Court aforesaid, and made to any Justice of the Peace or Court of Session, shall become forfeited, it shall be lawful for such Justice, or, in case of his death or incapacity, for any other Justice of the District, or for the Clerk of the Peace of the Court of Session, as the case may be, to make return of such Recognizance, and of the forfeiture thereof, under his hand and seal, in the form substantially in the Schedule annexed, to the Superior Court which shall first sit in such District : and thereupon the like proceedings shall be had for declaring the forfeiture of such Recognizance, and for the recovering of the penalty, as are hereinbefore directed in other cases.

Court may submit question to Jury.

III.—Provided, nevertheless, that it shall be lawful for the said Court in which any such Rule Nisi shall be pending, in any case wherein the Recognizance is conditioned for the performance of any act not to be done in or before or to such Court, should they consider it expedient for the ends of Justice and the discovery of the truth, to submit any question in controversy upon such Rule Nisi, to the determination of a Jury, in like manner as if such question came before the Court upon a special case ; and after such determination, such fur-

ther order shall be made by the Court as is hereinbefore directed.

IV.—Every such order for the payment, in whole or in part, of any such penalty, shall be enforced by the Court making the same, by process of contempt and by attachment of the property of the party liable in that behalf. The form of such process and attachment shall be as prescribed in the Schedule annexed, and the amount levied thereunder shall be paid over by the Court to the Receiver General for the use of the Colony.

Order for payment may be enforced by attachment, &c,

Schedule.

I, G. H., of _____, one of Her Majesty's Justices of the Peace for the _____ District of Newfoundland, do hereby certify and return unto the Honorable the _____ Court that the Recognizance hereto annexed, marked by me, was, on or about the _____, taken before _____, and that the same has become forfeited by breach of the condition thereof by X. Y., therein named.

Schedule.

Given under my Hand and Seal at _____, this
day of _____, 18 .

(Signed,)

G. H. (L. S.)

If the return be made by any other than the Justice before whom the Recognizance was entered into, or the breach of condition occurred, or was shewn, let the words "all which is satisfactorily proven to me," be added after the word "named."

Form of Attachment of the Person for contempt of Order of Court.

Schedule.

(L.S.) VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c.

To the Sheriff of _____, Greeting :

We command you that you arrest A. B., of _____ &c., and him commit to prison, there to remain until he shall have paid into the _____ Court the sum of _____ in obedience to the order of our said Court, dated _____, or until he be discharged in due course of Law.

Witness the Honorable _____ Justice of our Supreme Court of Newfoundland, at _____, this day of _____, (date of issuing.)

By the Court,

M. W. W.,

C. C. & R.

Form of Attachment of Property.

(L.S.) VICTORIA, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Sheriff of _____, Greeting :

We command you that of the property of A. B., of _____, &c., you cause to be made _____ dollars, which the said A. B. was, by order of our _____ Court, dated _____ ordered to pay into our said _____ Court ; and the amount levied you pay over to the Chief Clerk

of our said Court, to abide the order of the said Court herein.

Witness the Honorable Justice
of our Supreme Court of Newfound-
land, at , this day of
(date of issuing.)

By the Court,

M. W. W.,

C. C. & R.

CAP. XI.

An Act to amend an Act passed in the Twenty-seventh Year of the Reign of Her present Majesty, entitled "An Act to Improve and Simplify the Practice on the Common Law side of the Supreme and Central Circuit Courts, and to Consolidate the Laws relating to the same."

[Passed 7th April, 1865.]

WHEREAS it is expedient to amend an Act passed in the Twenty-seventh Year of the Reign of Her present Majesty, entitled "An Act to Improve and Simplify the Practice on the Common Law side of the Supreme and Central Circuit Courts, and to Consolidate the Laws relating to the same":

Preamble.

Be it therefore enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows :

I.—The tenth section of the hereinbefore recited Act is hereby repealed.

27 Vic. Cap. 9,
sec. 10, repea-
led.

II.—For the purpose of enabling a Court or Judge to direct proceedings to be taken against a Defendant residing out of their or his jurisdiction, as also for the purpose of issuing writs of Capias and Attachment under the twelfth and nineteenth sections of the said

Affidavits for
proceeding
against absent
defendants.