

CAP. IX.

An Act to amend the Constitution of the Supreme Court of this Colony, and to abolish the Circuit Courts.

[Passed 26th April, 1867.]

WHEREAS it is expedient to amend the Constitution of the Supreme Court of this Colony, and to abolish the Circuit Courts.

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

I.—The Supreme Court of Newfoundland shall have all Civil and Criminal Jurisdiction and Power conferred by the statute 5 George 4th, Cap. 67, entitled “ An Act for the better Administration of Justice in Newfoundland, and for other purposes,” and the Royal Charter, and by any other Laws and Statutes now, or hereafter to be in force in this Colony.

Jurisdiction of Supreme Court.

II.—The said Supreme Court shall continue to be composed, as at present, of a Chief Justice and two Assistant Judges, to be appointed, when vacancies may occur, as heretofore, or as may hereafter be provided by Her Majesty, her Heirs and Successors ; and which said Chief Justice and Assistant Judges shall respectively be Barristers of at least seven years’ standing ; and the said Chief Justice and Assistant Judges shall respectively have and exercise the like powers and authorities in Newfoundland and its dependencies as are or may be prescribed by the Act, Charter and Statutes aforesaid.

Chief Justice and two Assistant Judges, Barristers of 7 years’ standing.

III.—The Supreme Court shall, either in term or vacation, have authority in all cases for the breach

Power and authority of Supreme Court.

and violation of any Law relating to the Trade or Revenue, to hear and determine any information, action or suit, which may be brought before the said Court; which information, action or suit, shall be instituted, heard and determined, according to the course of proceeding in the Court of Vice-Admiralty, or according to the practice of the Court of Exchequer in England, with the like rights and powers of appeal to the High Court of Admiralty, or to the Queen in Council, as may be exercised in other cases. The determination of one Judge of the Supreme Court may be re-heard on motion of any party feeling himself aggrieved, before two or more Judges, in the manner prescribed by the 5th Section.

Court may sit at any time for business, save Jury cases.

IV.—The Supreme Court may sit at any time in Saint John's, whenever business may require, and hear and determine any matter within its jurisdiction, either in term or vacation, save issues of fact for trial by Jury at Common Law, which shall be heard and determined during the terms only hereinafter appointed: Provided always that the said Court shall hold Post-terminal Sittings, to continue for One Week at least, from and after the first Monday in February, March, April, and July, in each year.

Post-terminal sittings.

Court by one Judge, except certain cases.

V.—The Supreme Court, in St. John's, may be held by one Judge, who may hear and determine all matters, except cases of Treason and Capital Felony, when three Judges shall be present; and except motions for and hearing of Rules for new trials, motions in arrest of Judgment, Special Cases, Appeals and re-hearings in Equity, and in Revenue Cases, when at least two Judges shall be present: Provided that in these and in any other cases in which two Judges so sitting shall differ in opinion, the matter shall be re-heard, as soon as conveniently may be, by the three

Re hearings, Rules for new trials, and other cases, two Judges.

Judges, and the Judgment of any two shall be the Judgment of the Court : and Provided further, that nothing herein contained shall prevent the preferring and finding of any Bill of Indictment or any other proceeding incident to a charge of Treason or Capital Felony, before less than three Judges, save the actual trial and sentence in such cases. Proviso.

VI.—When it may conveniently be done, the Judges, or any of them, may, in Saint John's, sit apart and separately from the other or others, for the trial and determination of any matter which may be heard and determined by one Judge. Judges may sit apart.

VII.—The Chief Justice and Assistant Judges shall have power to make and prescribe such Rules and Orders as may be expedient, touching and concerning the forms and manner of proceeding and practice and pleading of the said Supreme Court, and such Rules and Orders from time to time to alter, amend and revoke : Provided that such Rules and Orders be not in anywise repugnant to any Law or Statute, now or hereafter to be in force. Power to make Rules, &c.

VIII.—There shall be at least two Terms or Sessions of the Supreme Court holden at the Town of Saint John's in every year ; the first whereof shall commence on the Tenth Day of May, and continue thence until the Fifth Day of June ; and the second whereof shall commence on the Fifteenth Day of November, and continue thence until the Tenth Day of December : Provided that if either of the Days of commencement of the said Terms shall fall upon a Sunday, then the Monday following shall be the first day of such Term : Provided further, that it shall be lawful for the said Court to prolong either of the said Terms by adjournment for a further period, not exceeding Five Days, unless any cause shall be actually Two Terms in St. John's each year. First, 10th May to 5th June. Second, 15th November to 10th December.

in the course of trial on the Fifth Day, when the Court may sit until the trial and adjudication shall have terminated.

Special Term
by Proclamation.

IX.—Anything in the foregoing Section notwithstanding, the Governor for the time being may, at any time, by Proclamation, direct a Term or Session of the said Court to be holden, with all the powers of the Court sitting during the Terms, so as aforesaid established:

Chief Clerk
Supreme Court
at St. John's.

X.—There shall be a Chief Clerk and Registrar of the Supreme Court at St. John's, to be appointed by the Governor in Council, who shall perform such duties as are performed by the Master, Registrar, Accountant General or Prothonotary of the Courts of Record at Westminster, or by such Officers as now in such Courts perform those duties, and all other such duties as the Chief Clerk and Registrar has hitherto been in the habit of performing and doth now perform: Provided that the said Chief Clerk and Registrar shall not, whilst in the occupation of the said Office, practise or act as Barrister, Attorney, Advocate, Solicitor, Proctor, Conveyancer, or Notary Public, or demand or receive any fee or compensation in connection with the last mentioned offices.

Tipstaff,

XI.—There shall be a Crier and Tipstaff of the Supreme Court, whose appointment shall be in the Chief Justice for the time being.

Commissioners
of Affidavits.

XII.—There shall be Commissioners of the Supreme Court for taking Affidavits for issuing process, mesne or final, and for taking bail within this Island and its Dependencies, or any part thereof, who shall be appointed under the Seal of the Supreme Court, and under the hand of the Chief Justice.

XIII.—There shall be Circuits of the Supreme Court held in the Northern and Southern Districts of Newfoundland, at such times and places, and under such conditions, as the Governor by Proclamation shall from time to time appoint.

Circuits of the Supreme Court in the Northern and Southern Districts by Proclamation.

XIV.—In all cases where the debt, damages, thing demanded, or question in issue, shall involve an amount of Two Hundred Dollars, or upwards, and in other cases if allowed by the presiding Judge on Circuit, any party to an action or suit shall have a Rule Nisi upon all points raised by such party, returnable before the Supreme Court in St. John's, at its next sitting there; or may have a special case, equity suit, or any information, action or suit, relating to the Revenue, re-heard: Provided that the Judge before whom the case may be tried, may require sufficient security from the appellant to abide the final judgment and costs: Provided that where a rule shall be applied for only upon the grounds of excessive damages, or of the verdict being contrary to evidence, it shall in all such cases be in the discretion of the Judge to grant such Rule Nisi or not.

Appeal.

Proviso.

XV.—The present Chief Clerks and Registrars of the Northern and Southern Circuit Courts shall perform the same duties respectively on the Northern and Southern Circuits in the Supreme Court as they now do in the Northern and Southern Circuit Courts, and as are prescribed above for the Chief Clerk and Registrar at Saint John's, and they shall, after the passing of this Act, be styled the Chief Clerks and Registrars of the Supreme Court on Circuit.

Duties of Clerks Northern and Southern Districts.

XVI.—In Criminal cases the Judge sitting in the Supreme Court on Circuit may reserve questions for argument, or direct motions for new trials, and in arrest of judgment, to be heard before the Supreme Court in St. John's.

Judge on Circuit may reserve questions in Criminal Cases.

Transfer of
Cases.

XVII.—It shall be lawful for the Supreme Court, upon such terms as may be deemed reasonable, to direct the transfer of any action or suit for trial from one place to another.

Transmission of
Records.

XVIII.—The Record and other proceedings in such cases, or copies thereof, shall be transmitted to the Office of the place of transfer, certified by a Judge or by the Registrar.

Issue and Re-
turn of Writs.

XIX.—Writs may be issued from any place within the Jurisdiction of the Supreme Court, returnable before the Supreme Court in St. John's, or in the District where the Defendant or his Agent may reside; there shall be no necessity for a Seal on such Writs as may be issued out of St. John's.

Circuit Courts
abolished.

XX.—The Central, Northern and Southern Circuit Courts shall cease to exist after this Act shall have come into operation; and any records and proceedings not carried to final execution at the time that this Act shall come into operation, shall become the records and proceedings of the Supreme Court on Circuit, or otherwise, as the case may be, and shall be proceeded with to final judgment and execution, as if the same had been initiated in the Supreme Court.

Commencement
of Act.

XXI.—This Act shall not come into operation until the Laws of this Colony shall have been consolidated, and until such further time as a Proclamation shall have issued to carry the same into effect.