

*Laws of Her Majesty's Province of Newfoundland*, passed in the year 1865. J. C. Withers,  
Queen's Printer, 1865.

28 Victoria – Chapter 10

**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.

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 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.

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.

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 ease; and after such determination, such further 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.

#### 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.

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.

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.

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 Newfoundland, at \_\_\_\_\_,  
this \_\_\_\_\_ day of (date of issuing.)

By the Court,  
M. W. W.,  
C. C. & R.