

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

28 Victoria – Chapter 11

**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 of 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.”

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- I. The tenth section of the hereinbefore recited Act is hereby repealed.
- 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 Act, where the affidavits to ground such writs shall be sworn out of the Colony, it shall be sufficient if the affidavit be sworn before a Judge of a Superior Court, a Mayor or Chief Magistrate, a Commissioner of Affidavits, Consul, or Consular Agent, at any port or place, and every affidavit so sworn may be used and shall be admitted in evidence, saving all just exceptions: Provided that such affidavit shall purport to be signed by such Judge, Mayor, Commissioner, Consul or Consular Agent, and certified under his Official Seal, or, where there shall be no Official Seal, shall be verified by affidavit before some competent authority, within the jurisdiction aforesaid, of the Official character and signature of the Officer before whom it shall have been sworn, or by such official character and signature being verified by certificate purporting to be under the hand and seal of a Consular Officer or Notary Public: Provided that if any person shall forge the signature or seal of any such affidavit or certificate, or shall use and tender in evidence any such affidavit or certificate with a false or counterfeit signature or seal thereto, knowing the same to be false or counterfeit, he shall be guilty of Felony, and shall, upon conviction, be liable to be banished for seven years, or imprisoned with hard labour for any time not exceeding: three years, nor less than one year. And every person who shall be charged with committing any felony under this Act, and every accessory before or after the fact may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in the district or place where he shall be apprehended, or be in custody.
- III. The provisions of the twenty-sixth section of the hereinbefore recited Act, shall apply to a defendant or defendants who have obtained judgment against a plaintiff or plaintiffs.
- IV. In the thirtieth section of the hereinbefore recited Act, Schedule number “six” is substituted for Schedule number “ five”; in the said Schedule number “six,” after the word “appeared,” the words “

and pleaded, as by law required," are hereby inserted; and the provisions of the seventh and thirty-first sections of the said Act shall apply as well to defendants residing out of the jurisdiction of the said Courts respectively, as to defendants residing out of the Colony.

V. The forms for entering, up judgment on Warrants of Attorney to confess judgment, and on confessions, shall be substantially as follows, namely: At the conclusion of a declaration in accordance with, and to be filed with the Warrant of Attorney, and in the case of a confession at the conclusion of a declaration, or with the summary writ to be filed with the cognovit, add, "And the defendant confesses judgment to the amount of \$ \_\_\_\_\_ and costs of suit. Therefore it is considered that the Plaintiff do recover against the Defendant the said sum of \$ \_\_\_\_\_ and his said costs, amounting to a further sum of \$ \_\_\_\_\_."

Dated this \_\_\_\_\_ day of \_\_\_\_\_

Anno Domini  
M. W. W.  
C. C. & Reg.