ANNO QUINTO

GEORGII IV. REGIS.

****

C A P. LXVII.

An Act for the better Administration of Justice in *Newfoundland*, and for other Purposes.

[17th *June* 1824.]

WHEREAS it is expedient to make further Provision for the Administration of Justice in the Colony of *Newfoundland;* be it therefore enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful for His Majesty, by His Charter or Letters Patent under the Great Seal, to institute a Superior Court of Judicature in *Newfoundland*, which shall be called "The Supreme Court of *Newfoundland;*" and the said Court shall be a Court of Record, and shall have all Civil and Criminal Jurisdiction whatever in *Newfoundland*, and in all Lands, Islands, and Territories dependant upon the Government thereof, as fully and amply, to all Intents and Purposes, as His Majesty's Courts of King's Bench, Common Pleas, Exchequer, and High Court of Chancery, in that Part of *Great Britain* called *England*, have, or any of them hath; and the said Supreme Court shall also be a Court of Oyer and Terminer and General Gaol Delivery in and for *Newfoundland*, and all Places within the Government thereof; and shall also have Jurisdiction in all Cases of Crimes and Misdemeanors committed on the Banks of *Newfoundland*, or any of the Seas or Island to which Ships or Vessels repair from *Newfoundland* for carrying on the Fishery.

His Majesty may institute a Superior Court of Judicature in Newfoundland, which Court shall be a Court of Oyer and Terminer and General Gaol Delivery.

II. And

Supreme Court to be held by a Chief Judge and Two Assistant Judges appointed by His Majesty, who may remove them and appoint others.

II. And be it further enacted, That the said Supreme Court shall be holden by a Chief Judge and Two Assistant Judges, being respectively Barristers in *England* or *Ireland* of at least Three Years standing, or in some of His Majesty's Colonies or Plantations, who shall be appointed to such their Offices by His Majesty, His Heirs and Successors: Provided always, that it shall be lawful for His Majesty, His Heirs and Successors, from Time to Time as Occasion may require, to remove and displace any such Chief Judge or Assistant Judge as aforesaid, and in his Stead to appoint any other fit and proper Person, being a Barrister as aforesaid, to be the Chief Judge or Assistant Judge of the said Court, as the Case may be: And provided also, that in case any such Chief Judge or Assistant Judge shall be absent from *Newfoundland*, or die, or resign such his Office, or by reason of Sickness or otherwise shall become incapable of performing the Duties thereof, then and in every such Case it shall be lawful for the Governor or Acting Governor of *Newfoundland*, for the Time being, to nominate and appoint some fit and proper Person to act as Chief Judge or Assistant Judge, as the Case may be, in the Place or Stead of the Judge so being absent, dying, resigning his Office, or becoming incapable of performing the Duties thereof, until such Judge shall resume the Duties of his Office, or until a Successor shall be appointed by His Majesty, His Heirs and Successors; and the said Chief Judge and Assistant Judges shall respectively have and exercise such and the like Powers and Authorities in *Newfoundland*, and in all Places dependant upon the Government thereof, as any Judge of any of His Majesty's said Courts of King's Bench, Common Pleas, and Exchequer, or as the Lord High Chancellor of *Great Britain*, hath or exercises in *England*.

Governor of Newfoundland may appoint Judges in certain Cases.

Issues of Fact to be tried at Saint John's by a Jury.

III. And be it further enacted, That all Issues of Fact which may be joined between the Parties in any Action at Law originally brought before the said Supreme Court of Record, or which may be joined upon any Criminal Information or Prosecution depending in that Court, shall be tried at the Town of *Saint John's* in the Island of *Newfoundland*, by a Jury of Twelve Men; and for the Purpose of hearing and trying all Suits, Actions, and all Informations, Prosecutions, and other Proceedings, of what Nature or Kind soever, which may be brought or commenced in the said Supreme Court, One or more Term or Terms, or Session or Sessions of the said Court, shall be held at the Town of *Saint John's* aforesaid, in each Year, by the said Chief Judge and Assistant Judges, at such Times as the Governor or Acting Governor of the said Colony shall from Time to Time, by any Proclamation to be by him for that Purpose issued, direct and appoint.

Appointment of Sessions.

Actions in breach of any Law relating to Trade of the British Colonies in America, to be tried according to Proceedings

IV. And be it further enacted, That as often as any Information, Action, or Suit shall be brought or prosecuted before the said Supreme Court, for the Breach or Violation of any Law relating to the Trade or Revenue of the *British* Colonies or Plantations in *America*, such Information, Action, or Suit shall be heard and determined by the said Court, according to the Course of Proceeding in similar Cases in the Courts of Vice Admiralty in the said Colonies or Plantations; and that it shall and may be lawful for the Party or

Parties feeling aggrieved by the Judgment or Decree of the said Supreme Court, in any such Case, to appeal from such Judgment or Decree to the High Court of Admiralty, or to His Majesty in Council, under such and the like Rules and Regulations as are observed in Appeals from the said Courts of Vice Admiralty. in Courts of Vice Admiralty. Appeal.

V. And be it further enacted, That the said Supreme Court shall have Power to grant Administration of the Effects of Intestates, and the Probate of Wills; and that the Effects of deceased Persons shall not be administered within the Island of *Newfoundland*, or any Island, Place, or Territory dependant upon the Government thereof, unless Administration or Probate shall have been duly granted by the said Supreme Court; and in all Cases where the Executor or Executors of any Will in *Newfoundland*, or the Dependencies thereof, upon being duly cited, shall refuse or neglect to take out Probate as aforesaid; or where the next of Kin shall be absent from *Newfoundland*, and the Effects of the Deceased shall appear to the said Supreme Court to be exposed and liable to Waste, it shall be lawful for the said Supreme Court to authorize and empower the Registrar or Clerk of the said Court, or some other fit and proper Person, to collect the said Effects, and hold, or deposit or invest the same in such Manner and Place, or upon such Security, and subject to such Orders and Directions as shall be made by the said Supreme Court in respect of the Custody, Control, or Disposal of such Effects. Supreme Court may grant Administration of the Effects of Intestates and Probates of Wills, &c.

VI. And be it further enacted, That the said Supreme Court shall have Power and Authority to appoint Guardians and Keepers for Infants and their Estates, according to the Order and Course observed in such Cases in *England*; and also to appoint Guardians and Keepers of the Persons and Estates of natural Fools, and of such as are or shall be deprived of their Reason or Understanding, so as to be unable to govern themselves and their Affairs, which the said Supreme Court shall have Power and Authority to enquire of and determine, by Inspection of the Person, or by such other Ways and Means as to such Supreme Court shall seem best for ascertaining the Truth. Supreme Court may appoint Guardians for Infants and Lunatics.

VII. And be it further enacted, That it shall and may be lawful for the Governor or Acting Governor for the Time being of *Newfoundland*, by any Proclamation or Proclamations to be by him for that Purpose issued, to apportion and divide the said Colony into Three several Districts, and to fix and ascertain the Boundaries and Limits of every such District, and such Boundaries or Limits from Time to Time to alter as Occasion may require: Provided always, that such Apportionment of the said Colony into such Districts as aforesaid, be made in such Manner as to such Governor or Acting Governor may appear to be best adapted for enabling the Inhabitants of the said Colony to resort with Ease and Convenience to the Circuit Courts to be therein established as after mentioned. Governor may divide Colony into Three Districts.

VIII. And be it further enacted, That it shall and may be lawful for His Majesty, by any such Charter or Letters Patent as aforesaid, to institute Circuit Courts in each of the Three Districts in which the said His Majesty may institute Circuit Courts.

said Colony may be so divided as aforesaid; and each of the said Circuit Courts shall be holden once at least in each Year by the said Chief Judge, or by One of the said Assistant Judges of the said Supreme Court of *Newfoundland*, at such Times, and at such One or more Place or Places within each of the said Districts, as the Governor or Acting Governor for the Time being of *Newfoundland* shall from Time to Time direct and appoint.

Circuit Courts to be Courts of Record, exercising the same Jurisdiction as the Supreme Court, except in the Cases of Treason and Felonies not within Benefit of Clergy, &c.

IX. And be it further enacted, That the said Circuit Courts shall be respectively Courts of Record, and shall, within the District in which it may be holden, have and exercise all such and the same Jurisdiction, Powers, and Authority, as is hereby vested in the said Supreme Court of *Newfoundland* throughout the whole of the said Colony; saving and excepting the trying and determining of Treasons, or Misprisions of Treason, and Felonies not within the Benefit of Clergy, and the hearing or determining of any Information, Suit, or Action, for the Breach or Violation of any Act of Parliament relating to the Trade and Revenue of the *British* Colonies in *America*; all which said Crimes and Offences, Informations, Suits, and Actions, shall be tried, enquired of, heard, and determined in the said Supreme Court of *Newfoundland*, and not elsewhere within the said Colony.

Crimes cognizable in Circuit Courts and Civil Actions to be tried by Jury according to the Law of England.

X. And be it further enacted, That all Crimes and Misdemeanors, cognizable in the said Circuit Courts, and all Issues of Fact which may be joined between the Parties in any Civil Action, depending in the said Circuit Courts, shall be enquired of, heard, and determined by the said Circuit Judge, and a Jury of Twelve Men, according to the Rules and Course of the Law of *England*, as far as the Situation and Circumstances of the said Colony will permit.

But where a Jury shall not be formed, Trials for Crimes shall be had by the Circuit Judge and Three Assessors, being Justices of Peace, and nominated by the Governor.

Such Assessors liable to be challenged.

XI. Provided nevertheless, and be it further enacted, That if upon the Trial of any Crimes or Misdemeanors before any of the said Circuit Courts, Twelve good and lawful Men shall not appear to form a Jury, then and in all such Cases such Trial shall be had by the Circuit Judge and Three Assessors, being Justices of the Peace in and for the said Colony, or for some District thereof; and the said Justices shall be nominated from Time to Time to serve as such Assessors as aforesaid by the Governor or Acting Governor for the Time being of the said Colony, and shall severally be liable to be challenged or objected to upon the special Ground of direct Interest or Affection, to be specified in open Court at the Time of Challenge; and in case of such Challenge or Objection being allowed by the Judge of the said Circuit Court, the Justice of the Peace so challenged or objected to shall be succeeded by another such Justice of the Peace, who shall in like Manner be nominated by the Governor or Acting Governor for the Time being as aforesaid, and be liable in the same Manner to Challenge or Objection, until Three such Justices of the Peace shall appear duly qualified for the Trial of any Offender in the said Circuit Courts respectively; and the said Justices of the Peace shall thereupon severally take and repeat in open Court the same Oath as is taken by Petit Jurors impannelled for the Trial of any Crime or Misdemeanor in a Court of Record in *England*; and the Judges of the said Circuit Courts respectively shall, together with the

the said Three Assessors, give their Verdict upon every such Trial in open Court; but no Person shall be found guilty by any such Verdict unless the Judge of the said Court, and Two at the least of his said Assessors, shall concur in such Verdict; and the Proceedings in the said Circuit Courts respectively shall be under the Controul and Direction of the respective Judges thereof, and all Matters of Law arising in the Course of any Trial shall be determined by such Judges respectively.

Civil Actions to be tried by the Judge of the Court alone where Jury shall not be formed.

XII. Provided also, and be it further enacted, That if upon the Trial of any Issue or Issues of Fact joined between the Parties in any Civil Suit or Action depending in any of the said Circuit Courts, Twelve good and lawful Men shall not appear to form a Jury, all such Issues of Fact shall be tried and decided by the Judge of such Court alone, and without a Jury; and that in all Cases where the Sum or Matter at Issue in any such Suit or Action shall exceed or be of the Value of more than Fifty Pounds Sterling *British* Money, the Judges of the said Courts respectively shall cause the Evidence on any such Hearing or Trial as aforesaid to be taken down in Writing by the Clerk, or other proper Officer, in open Court, in the Presence of the Witnesses respectively giving the same, and the Evidence so taken shall be entered upon the Proceedings of the said Courts respectively, and be of Record; and in every Case in which any Appeal shall be made and allowed under the Provisions of this Act, from any Judgment of the said Circuit Courts, not founded on the Verdict of a Jury, Copies of all Documents and Papers which shall have been produced and given in Evidence, shall be certified by the said Clerk, or other proper Officer, as authentic; and also Copies of any Documents and Papers which shall have been produced and tendered in Evidence and rejected, shall, if required by the Party producing the same, be in like Manner authenticated, but marked by such Officer as aforesaid as rejected, in order that all such Copies may be annexed to the Record, as Part thereof, in case of Appeal.

Evidence, where the Matter at Issue is above the Value of 50*l.* to be in Writing.

On Appeal, Documents to be produced.

On Application of either of the Parties before Trial, though the Sum does not amount to 50*l.* the Judge may permit the Evidence to be recorded.

XIII. And be it further enacted, That it shall be lawful for the Judges of the said Circuit Courts respectively, on the Application of either of the Parties, Plaintiff or Defendant, at or before the Trial of any Issue of Fact joined in any Civil Suit or Action commenced in the said Circuit Courts respectively, in case such Issue is not tried by a Jury, to permit the Evidence on such Trial to be recorded and certified as aforesaid, although the Sum or Matter at Issue may be less in Value than Fifty Pounds Sterling, provided it shall be made to appear to such Judge that the Judgment, Decree, Order, or Sentence, which may be given, made, or pronounced in such Suit or Action, may be of such Importance as to render it proper that an Appeal should be permitted; and if, after giving or pronouncing such Judgment, Decree, or Order, the said Judge shall be of Opinion that such Judgment, Decree, or Order is of such Importance as to make it proper that an Appeal should be permitted, it shall be lawful for the said Judge to allow either of the said Parties, Plaintiff or Defendant, to appeal to the Supreme Court, in like Manner, and under and subject to the like Rules and Regulations, as in and by this Act directed in other Cases of Appeal.

Appeal to the Supreme Court may be made on giving Notice.

XIV. And be it further enacted, That it shall be lawful for the Plaintiff or Plaintiffs, Defendant or Defendants, against whom any Judgment, Decree, or Order of the said Circuit Courts respectively shall be given, for or in respect of any Sum or Matter at Issue above or exceeding the Value of Fifty Pounds Sterling, to appeal therefrom to the said Supreme Court, and the Party or Parties appealing from such Judgment, Decree, or Order, shall, within Fourteen Days from the passing thereof, give Notice to the adverse Party or Parties of such Appeal, and within Fourteen Days from and after such Judgment, Decree, or Order, enter into sufficient Security, to be approved by the Judges of the said Circuit Courts respectively, to satisfy or perform the said Judgment, Decree, or Order, in case the same shall be affirmed, or the Appeal dismissed, together with such further Costs as shall be awarded thereon; and in all Cases of Appeal, where Notice shall be given and Security perfected as aforesaid, Execution shall be stayed, and not otherwise; and the said Supreme Court shall and may enquire into, hear, and decide all Questions, whether of Law or of Fact, arising upon any such Appeal, but shall not admit or receive any Evidence which was not tendered to the Circuit Court from which such Appeal may be brought on the Hearing or Trial of any such Suit or Action therein: Provided always, that the said Supreme Court shall not reverse, alter, or enquire into any Judgment of the said Circuit Courts, founded on the Verdict of a Jury, except only for Error of Law apparent upon the Record.

Verdict of Jury not to be enquired into.

Actions may be removed from one Court to another.

XV. And be it further enacted, That as often as any Action or Suit shall be brought in the Supreme Court, or in either of the said Circuit Courts respectively, and it shall be made to appear to the Court before which such Action or Suit may be pending, that such Action or Suit may be more conveniently heard and determined either in the said Supreme Court or in some other of the said Circuit Courts, it shall be lawful for such Court to permit and allow such Action or Suit to be removed to such other Court, and such Allowance shall be certified by the Judge, together with the Writ or Process and Proceedings in such Action or Suit, to the Court into which such Action or Suit shall be intended to be removed; and thereupon it shall be lawful for such last-mentioned Court, and such Court is hereby required to proceed in such Action or Suit in like Manner as if the same had been originally commenced and prosecuted in such last-mentioned Court.

Defendants not appearing on Summons, their Goods to be attached or Persons arrested, &c.

XVI. And be it further enacted, That in all Actions at Law or Suits in Equity, which shall be brought in the said Courts respectively, where the Debt or Sum demanded shall not be sworn to as hereinafter mentioned, the Defendant or Defendants in such Action or Suit shall be made to appear to such Action or Suit by Summons, to be issued by the Chief Judge of the said Supreme Court, or by the Judges of the said Circuit Courts respectively, and served by the proper Officer on the said Defendant or Defendants personally, or left at his, her, or their usual Place of Abode; and in all Cases where such Summons shall be disobeyed, or where the Debt, Damages, or Thing demanded shall exceed Ten Pounds Sterling Money, and shall be sworn to in an Affidavit made by the Plaintiff or Plaintiffs, or

his, her, or their lawful Attorney, then the said Defendant or Defendants shall be made to appear by Attachment of his, her, or their Goods, Debts, or Effects, or by Arrest of the Person of the said Defendant or Defendants; and in case of his, her, or their Goods, Debts, or Effects being attached as aforesaid, such Goods, Debts, or Effects, or so much thereof as shall be judged by the said Court sufficient to satisfy the Debt or Damages, shall be held as Security for such Debt or Damages, and shall abide the Order, Judgment, or Decree of the Court issuing such Attachment, unless the Defendant or Defendants, or some Person on his, her, or their Behalf, shall appear and give good and sufficient Bail, to be approved by such Court, to satisfy such Judgment, Decree, or Order; and where the Defendant or Defendants has or have been arrested, he, she or they shall not be discharged out of Custody until he, she, or they shall in like Manner have given good and sufficient Bail, to be approved by such Court, to satisfy the Judgment, Decree, or Order of the Court in the Cause in which such Arrest was made; and it shall also be lawful for the said Courts respectively, when any such Action or Suit as aforesaid shall be depending therein, to cause to appear from Day to Day all Parties interested therein, and to examine upon Oath any of such Parties in case such Examination shall appear to the said Court necessary for the Discovery of the Truth; but not otherwise; and thereupon, and after due Consideration of all Circumstances of the Case, to make such Order, Judgment, or Decree therein, and award such Damages and Costs, as shall be just and equitable; and such Order, Judgment, or Decree shall be enforced by Attachment and Sale of the Goods, Debts, and Effects, or by Arrest of the Person or Persons against whom such Order, Judgment, or Decree shall be made, and Imprisonment of such Person or Persons until such Order, Judgment, or Decree shall be performed and satisfied.

Powers given for making Rules and Orders for the Proceedings in the Supreme Court and Circuit Courts, &c.

XVII. And be it further enacted, That it shall be lawful for His Majesty, His Heirs and Successors, by such Charter or Letters Patent as aforesaid, or by any Order or Orders to be hereafter issued by and with the Advice of His or Their Privy Council, to make and prescribe, or to authorize and empower the said Supreme Court of *Newfoundland*, under such Limitations as His Majesty shall deem proper, to make and prescribe such Rules and Orders touching and concerning the Forms and Manner of Proceeding in the said Supreme Court and Circuit Courts respectively, and the Practice and Pleadings upon all Indictments, Informations, Actions, Suits, and other Matters to be therein brought; or touching or concerning the appointing of Commissioners to take Bail, and examine Witnesses; the taking Examinations of Witnesses *de bene esse*, and allowing the same as Evidence; the granting of Probates of Wills and Letters of Administration; the Proceedings of the Sheriff and his Deputies, and other Ministerial Officers; the summoning of Assessors for the Trial of Crimes and Misdemeanors in the said Circuit Courts; the Process of the said Court, and the Mode of executing the same; the empannelling of Juries; the Admission of Barristers, Attornies, and Solicitors; the Fees, Poundage, or Perquisites to be lawfully demanded by any Officer, Attorney, or Solicitor in the said Courts respectively; and all other Matters and Things whatsoever touching the Practice of the said Courts,

Courts, as to His Majesty, His Heirs and Successors, shall seem meet for the proper Conduct of Business in the said Courts; and such Rules and Orders from Time to Time to alter, amend, or revoke, as to His Majesty, His Heirs and Successors, shall seem requisite.

Power to the Governor to institute a Court of Civil Jurisdiction on the Coast of Labrador, &c. 51 G. 3. c. 45.

XVIII. And whereas it is expedient to make further Provision for the Administration of Justice on the Coast of *Labrador;* be it further enacted, That so much of an Act passed in the Fifty-first Year of the Reign of His said Majesty *George* the Third, intituled *An Act for taking away the Public Use of certain Ships Rooms, in the Town of* Saint John's *in the Island of* Newfoundland, *and for establishing Surrogate Courts on the Coast of* Labrador, *and in certain Islands adjacent thereto,* as relates to the Institution of Surrogate Courts, shall be, and the same is hereby repealed; and that it shall and may be lawful for the Governor or Acting Governor of *Newfoundland* for the Time being, to institute a Court of Civil Jurisdiction at any such Parts or Places on the Coast of *Labrador*, or the Islands adjacent thereto, which, in and by the said Act passed in the Fifty-first Year of the Reign of His Majesty *George* the Third, are re-annexed to the Government of *Newfoundland*, as Occasion shall require; and such Court shall be held by One Judge, and shall be a Court of Record, and shall have Jurisdiction, Power, and Authority to hear and determine all Suits and Complaints of a Civil Nature arising within any of the said Parts and Places on the Coast of *Labrador*, or the Islands adjacent thereto; and the said Court shall be holden by a Judge, who shall be appointed from Time to Time by the Governor or Acting Governor of *Newfoundland,* and shall have a Clerk and such other Ministerial Officers as the Governor or Acting Governor shall appoint; and the Proceedings of the said Court shall be summary, and such Forms of Process, and such Rules of Practice and Proceeding as shall be settled by the Chief Judge of the said Supreme Court, shall be followed by the said Court, and no other.

Court to be held by One Judge, and to hear and determine Complaints of a Civil Nature.

Appeal to Supreme Court in certain Cases.

XIX. And be it further enacted, That it shall and may be lawful for the Plaintiff or Plaintiffs, Defendant or Defendants, against whom any Judgment, Decree, or Order of the said Court shall be given, for or in respect of any Sum or Matter at Issue above Fifty Pounds Sterling, or where the Matter in dispute shall relate to the Title to any Lands, Tenements, Right of Fishery, annual Rent, or other Matter, where, in the Judgment of the said Court, Rights in future may be bound, to appeal therefrom to the said Supreme Court; and the Party or Parties appealing from such Judgment, Decree, or Order, shall, within Seven Days from the passing thereof, give Notice to the adverse Party or Parties of such Appeal, and within Fourteen Days from and after such Judgment, Decree, or Order, enter into sufficient Security, to be approved by the Judge of the said Court, or some Person to be appointed by him for that Purpose in his Absence, to satisfy or perform the said Judgment, Decree, or Order, in case the same shall be affirmed, or the Appeal dismissed, together with such further Costs as shall be awarded thereon; and in all Cases of Appeal, where Notice shall be given and Security perfected as aforesaid, Execution shall be stayed, and not otherwise.

XX. And

Appeal from Supreme Court to His Majesty in Council.

XX. And be it further enacted, That it shall and may be lawful for His Majesty, by His said Charter or Letters Patent, to allow any Person or Persons, feeling aggrieved by any Judgment, Decree, Order, or Sentence of the said Supreme Court, to appeal therefrom to His Majesty in Council, in such Manner, within such Time, and under and subject to such Rules, Regulations, and Limitations, as His Majesty, by such Charter or Letters Patent respectively, shall appoint and direct.

Governor, on Arrival of His Majesty's Charter, to notify by Proclamation when the Courts shall be opened, and thereupon so much of 49 G. 3. c. 27. as relates to the Courts thereby instituted, shall be repealed, and Proceedings and Records of those Courts delivered over to the Courts instituted under this Act.

XXI. And be it further enacted, That the Governor or Acting Governor of *Newfoundland*, upon the Arrival in the said Colony of His Majesty's Charter or Letters Patent for the Establishment of the said Courts by virtue of this Act, shall by Proclamation notify to the Inhabitants of the said Colony, the Time when the said Courts respectively shall be intended to be opened; and as soon as the Judges of the said Supreme Court shall have assumed and entered upon the Exercise of their Jurisdiction therein, then and from thenceforth so much of the Act passed in the Forty-ninth Year of the Reign of His late Majesty *George* the Third, intituled *An Act for establishing of Courts of Judicature in the Island of* Newfoundland, *and in the Island adjacent; and for re-annexing Part of the Coast of* Labrador, *and the Islands lying on the said Coast, to the Government of* Newfoundland, as relates to the Courts thereby instituted, and respectively called the Supreme Court of Judicature of the Island of *Newfoundland*, and Surrogate Courts, shall cease to be in force and determine; and every Suit, Action, Complaint, Matter, or Thing, which shall be depending in such last-mentioned Courts respectively, shall and may be proceeded upon in the Supreme Court instituted under and by virtue of this Act, or either of the said Circuit Courts which shall have Jurisdiction within the District or Place in *Newfoundland* where such Action or Suit respectively was depending; and all Proceedings which shall thereafter be had in such Action or Suit respectively, shall be conducted in like Manner as if such Action or Suit had been originally commenced in one or other of the said Courts instituted under this Act; and all the Records, Muniments, and Proceedings whatsoever, of and belonging to the said Courts instituted under the said recited Act respectively, shall, from and immediately after the opening of the said Courts respectively instituted under this Act, be delivered over and deposited for safe Custody in such of the said Courts respectively instituted under this Act as shall be found most convenient, and all Parties concerned shall and may have recourse to the said Records and Proceedings, as to any other Records or Proceedings of the said Courts respectively.

Courts of General and Quarter Sessions shall be held at such Times and Places as the Governor shall appoint.

Their Powers.

XXII. And be it further enacted, That Courts of General and Quarter Sessions shall be holden at *Newfoundland* and its Dependencies at such Times and Places as the Governor or Acting Governor of *Newfoundland* shall by his Proclamation appoint; and the said Courts of Sessions respectively shall have Power and Authority, in a summary Way, to take Cognizance of all Suits for the Payment of Debts not exceeding Forty Shillings, except the Matter in Dispute shall relate to the Title to any Lands or Tenements, or to the taking or demanding of any Fee of Office or Annual Rent, and to award

Costs therein; and also to hear and determine all Disputes, to any Amount, which may arise in *Newfoundland* concerning the Wages of Seamen or Fishermen, the Supply of Bait, the Hiring of Boats for the Fishery, and all Disputes arising in *Newfoundland* aforesaid concerning the curing or drying of Fish, where the Sum or Matter in Question does not exceed or is not of the Value of more than Five Pounds Sterling; and the Judgment, Determination, or Award of the said Courts of Sessions or Justices respectively, in all such Cases, shall be final.

"Proceedings in Cases of Insolvency.

XXIII. And whereas it is expedient to make Provision for declaring Insolvencies in *Newfoundland*; be it further enacted, That as often as any Writ of Attachment, or other Process for the Recovery of any Debt or Sum due, shall be issued by the said Supreme or Circuit Courts respectively, against any Person or Persons residing or having a House of Trade, or carrying on Business in *Newfoundland*, or any Place within the Government thereof, and it shall be made to appear to the said Court out of which such Writ or Process shall have issued, at the Return thereof, that the Person or Persons against whom such Writ or Process hath issued is or are unable to pay Twenty Shillings in the Pound to all his, her, or their Creditors, it shall be lawful for such Court to cause the Person or Persons against whom such Process shall have issued, together with all his, her, or their Creditors, to be summoned by public Notice to attend the said Court on a certain Day, and in the meantime, if it shall appear necessary to the said Court, to appoint One or more of the said Creditors as Provisional Trustee or Trustees, to discover, collect, and receive the Estates and Effects of such Person or Persons so appearing to be insolvent, subject to the Orders and Directions of the said Court; and if after due Examination of the Person or Persons against whom Process shall have issued as aforesaid, or his, her, or their lawful Agent or Agents, or if such Person or Persons shall abscond, or fail to attend the said Court pursuant to Summons as aforesaid, it shall be made to appear to the Satisfaction of the said Court, that such Person or Persons is or are insolvent, it shall be lawful for the said Court to declare such Person or Persons insolvent accordingly, and immediately to take order for discovering, collecting, and selling the Estates, Debts, and Effects of such Insolvent, and distributing the Produce thereof amongst all his, her, or their Creditors, and for that Purpose to authorize any Two or more Creditors of the said Insolvent or Insolvents, who shall be chosen by the major Part in Value of such Creditors, or their Agents duly authorized in such Behalf, whose Debts amount respectively to the Sum of Twenty Pounds and upwards, to act as Trustees of such insolvent Estate; and such Court shall from Time to Time make such Orders as it shall deem proper, for better discovering, collecting, realizing, and distributing the Estates, Debts, and Effects of the Person or Persons so declared insolvent, and, as often as occasion shall require, for vesting the same, or any Part thereof, in the Public Funds or Securities in *England*, in the Name or Names of such Person or Persons as shall for that Purpose be appointed by the said Court, until Distribution can be made, as hereafter mentioned.

XXIV. And

XXIV. And be it further enacted, That if such insolvent Person or Persons shall make a full and true Disclosure, Discovery, and Surrender of all his, her, or their Estates, Goods, Debts, and Effects, and shall conform to the Orders and Directions of the said Judges of the said Courts respectively, the same shall and may, with the Consent in Writing under the Hands of One Half in Number and Value of the Creditors of such Insolvent or Insolvents, be certified by the respective Judges, under the Seal of the said Courts respectively; and such Certificate may be pleaded, and shall be a Bar to every Suit or Action which may at any Time thereafter be brought in any Court in the said Island or Colony of *Newfoundland* or its Dependencies, for any Debt or Contract for Payment of Money due or entered into by such Person or Persons prior to the Time of his, her, or their being declared insolvent as aforesaid; and if any Person or Persons so declared insolvent as aforesaid shall fail to make a true Disclosure and Discovery of all his, her, or their Estate or Estates, and Effects, or shall otherwise refuse to conform to the Orders or Directions of the said Judges respectively, it shall be lawful for the said Judges respectively to cause such Person or Persons to be arrested and imprisoned until he, she, or they shall make such Disclosure and Discovery, and in all respects conform to the Orders of the said Judges respectively.

Insolvents, on making Disclosure of their Effects and conforming to the Directions of the Judges, may receive Certificates, with Consent of One-half in Number and Value of the Creditors.

XXV. And be it further enacted, That in the Distribution to be made of the Produce of the Estates and Effects of every Person or Persons hereafter declared insolvent in *Newfoundland* or its Dependencies as aforesaid, every Creditor for Supplies necessary, and furnished *bonâ fide* for the Fishery, during the current Season, (that is to say), at any Time after the Close of the last preceding Season of the Fishery, shall be considered as a privileged Creditor, and shall first be paid Twenty Shillings in the Pound, so far as the Estates and Effects of such insolvent Person or Persons, which may be realized in *Newfoundland* or its Dependencies will go, and that all other Creditors shall be paid equally and rateably: Provided always, that nothing in this Act contained shall affect the prior Claims of Seamen and other Servants, actually employed in the catching and taking of Fish and Oil, upon all Fish and Oil caught by the Hirers or Employers of such Seamen, Fishermen, or Servants, or the Produce or Value thereof; and also provided that menial or domestic Servants shall in all Cases be paid the Balance of their last preceding Year's Wages, out of the Household Furniture, Goods, and Effects of every Person so declared insolvent.

Creditors for Supplies for the Fishery for the current Season shall be privileged, and be first paid 20*s.* in the Pound.

Not to affect the prior Claims of Seamen or Domestic Servants.

XXVI. And whereas it is expedient that the Estates and Effects of deceased Persons which may not be sufficient to pay all their just Debts should be distributed according to the Manner herein directed concerning the Estates and Effects of Persons declared insolvent; be it further enacted, That as often as any Person shall die in *Newfoundland*, or in any Place, or Seas, or Territory within the Government thereof, and the Estates and Effects of such Person shall not be sufficient to pay and satisfy all his or her just Debts, it shall be lawful for the said Courts respectively, at the Petition of the Executor or Executors, Administrator or Administrators of such deceased Person, or any One

Proceedings in Cases where Persons die insolvent.

or more of his or her Creditors, to cause a true Statement of the Effects and Debts of such deceased Person to be made in Writing by and upon the Oath of the said Executor or Executors, Administrator or Administrators, and laid before the said Courts respectively; and if it shall appear to the Court before which such Statement shall be laid, that the Estate and Effects of such deceased Person are not sufficient to pay all his or her just Debts, it shall be lawful for such Court to authorize and empower the Executor or Executors, Administrator or Administrators of such deceased Person to collect, sell, and dispose of all the Estates and Effects of such deceased Person, and to distribute the Produce thereof amongst his or her Creditors, according to the Manner of Distribution by this Act directed in respect of the Estates of Persons declared insolvent, and always subject to the Orders and Directions of such Court: Provided always, that nothing herein contained shall be construed to affect the Right of any Creditor having a Judgment or Special Security for his or her Debts.

Registrars of Deeds appointed.

XXVII. And whereas it is expedient that Provisions hould be made for the Registration, within the said Colony of *Newfoundland*, of all Deeds, Wills, and other Assurances, whereby any Lands or Tenements therein situate may be granted, conveyed, devised, mortgaged, charged, or otherwise affected; be it further enacted, That the Chief Clerk of the Supreme Court of *Newfoundland* shall be also the Registrar of Deeds within the District or Circuit in which the Town of *St. John's* may be situate, and that the Chief Clerks of each of the Circuit Courts to be holden in and for the Two other Districts of the said Colony, shall respectively be the Registrars of Deeds within such other Districts or Circuits; and in each of the said Three Districts an Office shall be kept by such Chief Clerk respectively, for the due Registration of all such Deeds, Wills, and other Instruments as aforesaid.

Deeds shall be registered at the Office of Registration within the District in which the Lands are situate, within a certain Time.

XXVIII. And be it further enacted, That all Deeds, Wills, Conveyances, and other Assurances in Writing, of what Nature or Kind soever, whereby any Lands or Tenements situate in the said Colony, or the Dependencies thereof, may be hereafter granted, conveyed, devised, mortgaged, charged, or otherwise affected or intended so to be, shall be registered at the Office of Registration within the District or Circuit in which such Lands may be situate; and that all such Deeds, Conveyances, and other Assurances as aforesaid, shall be left for Registration at such Office within Six Months next after the Execution thereof, by the Party or Parties from whom any Interest may pass, in case such Party or Parties may, at the Time of such Execution thereof by him, her, or them, be resident within the said Colony or its Dependencies, or within Twelve Months in case such Party or Parties may at that Time be resident elsewhere; and all such Wills as aforesaid shall be left for Registration at such Office Twelve Months next after the Death of the Testator or Testatrix.

How Deeds shall be verified before the Registrar.

XXIX. And be it further enacted, That some or one of the Parties executing any such Deed, Conveyance, or other Assurance as aforesaid, shall appear before the Registrar of Deeds, and acknowledge the Execution thereof by them, him, or her, or in case none of the Parties

ties to any such Deed, Conveyance, or Assurance shall be resident in the said Colony, then the same shall be acknowledged before the said Registrar of Deeds, by some Person duly appointed for that Purpose as the Attorney of such Parties; and in that case the Execution of every such Deed, Conveyance, or other Assurance shall be further verified by an Affidavit to be sworn before the Mayor or other principal Magistrate of any City, Town, or Place in or near to which such Parties respectively may be resident; and such Affidavit shall also be preserved and registered at the Office of the said Registrar of Deeds.

Registrar to indorse on the Deed a Certificate of Registry.

XXX. And be it further enacted, That the Registrar of Deeds shall and he is hereby required to indorse and subscribe, on every such Deed, Conveyance, or other Assurance, a Certificate, in which shall be expressed the Day or Time when the same was so acknowledged before him, and the Names of the Person or Persons by whom such Acknowledgment was made, and the Time when the same was actually registered, and the Volume and Page in which the Registry thereof is entered; and every such Certificate so indorsed or subscribed shall be taken and allowed as Evidence of the due Registration of any such Deed, Conveyance, or Assurance.

Registrar to enter in the Book of Registry a Memorial of the Deed acknowledged before him.

XXXI. And be it further enacted, That the Registrar of Deeds shall and he is hereby required to enter in a Book of Registry, to be by him regularly kept for that Purpose, a Memorial of every Deed, Conveyance, or Assurance which shall be so acknowledged before him; and every such Memorial shall contain a Statement of the Year and Day of the Month on which such Deed, Conveyance, or Assurance shall bear Date, the Names and Additions of all and every the Parties, as well as the Names and Additions, if any, of the several subscribing Witnesses thereto, the Descriptions at Length of the Lands or Tenements conveyed or intended to be conveyed, charged, or affected by such Deed, Conveyance, or Assurance, as the same are therein described, and the Consideration of every such Deed, Conveyance, or Assurance, as the same may be therein stated; all which Memorials shall be entered and recorded in the said Book of Registry with all convenient Dispatch, in the Order of Time in which the same may have been acknowledged before the said Registrar.

Deeds hereafter to be made, conveying Lands, &c. not duly registered, declared void.

XXXII. And be it further enacted, That every Deed, Conveyance, or Assurance hereafter to be made, whereby any Lands or Tenements situate in *Newfoundland*, or the Dependencies thereof, shall be granted, conveyed, released, charged, or incumbered, or intended so to be, which shall not be registered within the Time and in the Manner herein-before mentioned, shall be absolutely null and void to all Intents and Purposes: Provided always, that every such Deed, Conveyance, or Assurance shall be deemed and taken to be a registered Deed, Conveyance, or Assurance within the Meaning of this Act, from the Time when the Execution thereof shall be acknowledged in Manner aforesaid, before such Registrar of Deeds as aforesaid.

Supreme Court authorized to make

XXXIII. And be it further enacted, That the Judges of the Supreme Court of *Newfoundland* shall be and they are hereby authorized to

Rules and Orders for the Registry of Deeds, &c.

to make any general Rules and Orders of Court for maintaining Order and Regularity in the Mode of taking such Acknowledgments, and registering such Deeds, Wills, Conveyances, and other Assurances as aforesaid, and for executing the Duties of said Office of Registrar of Deeds; provided that such Rules and Orders be not in anywise repugnant to the Provisions of this present Act in that Behalf.

Governor may establish Ordinances for the granting of Licences for the Retail of Ale and Spirits, and as to the Sums to be paid and the Appropriation.

XXXIV. And whereas the Justices of the Peace in *Newfoundland* have been used to grant Licences for the Retail of Ale and Spirituous Liquors, and it is proper to regulate the Sums to be demanded upon such Licences, and to make Provision for the Appropriation thereof, and for preventing Abuses in the granting of such Licences, and in the Sale of Spirits by unlicensed Persons in the said Colony; be it therefore enacted, That it shall and may be lawful for the Governor or acting Governor of *Newfoundland* to make, establish, and ordain such Rules and Ordinances as to him may seem meet, respecting the granting of such Licences, and the recalling the same, and the Amount of the Sums to be demanded and taken for every such Licence, and the Appropriation of such Sums to His Majesty's Service in the said Colony, and for preventing the Retail of Ale and Spirituous Liquors by Persons not duly licensed, and to impose such pecuniary Fines or other Penalties as may be necessary for enforcing Obedience to any such Rules or Ordinances as aforesaid.

His Majesty may grant Charters for establishing Corporations for the Government of Towns.

XXXV. And be it further enacted, That it shall and may be lawful for His Majesty, by Charter or Letters Patent under the Great Seal, to constitute and erect such Persons as to His Majesty shall seem meet a Body or Bodies Corporate and Politic, for the Government of any Town or Towns situate within the said Colony of *Newfoundland* or its Dependencies, and to grant to such Body or Bodies Politic and Corporate, Power to make Bye-Laws for regulating the Police of any such Town or Towns, and for the Prevention or Abatement of Nuisances therein, and for the Prevention of Accidents by Fire; and also to grant to any such Body or Bodies Politic and Corporate as aforesaid, the Power to impose and levy such reasonable and moderate Rates and Assessments upon the Inhabitants and Householders in such Town or Towns, as may be necessary for carrying into Effect the several Purposes aforesaid, or any of them; and it shall also be lawful for His Majesty, His Heirs and Successors, by any Order or Orders to be made by or with the Advice of His or Their Privy Council, to dissolve any such Corporation or Corporations as aforesaid, upon and subject to such Conditions and Regulations as may be made in and by any such Order or Orders in that Behalf.

Continuance of Act.

XXXVI. And be it further enacted, That this Act shall continue and be in force for Five Years from the passing thereof, and no longer.

LONDON: Printed by GEORGE EYRE and ANDREW STRAHAN, Printers to the King's most Excellent Majesty. 1824.