

CHAPTER 52.

Of the Central and Harbor Grace District Courts.

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1. There shall be a Court of Record for the Central District to be called the Central District Court, to be held in St. John's whenever business may require, and in such other places within the Central District at such times and for such periods of time in each place as may from time to time be prescribed by proclamation of His Excellency the Governor, which proclamation shall for the purposes aforesaid have the force and effect of law as if enacted in this chapter.

2. There shall be a Court of Record held in Harbor Grace, to be styled the District Court of Harbor Grace, with jurisdiction over the following electoral districts, viz : Harbor Grace, Carbonear, Port-de-Grave and Bay-de-Verde, and also that part of the electoral district of Trinity, lying on the South side of Trinity Bay, between Scilly Cove and Bay Bull's Arm inclusive. The said District Court of Harbor Grace shall be held at such places within the limits above (other than Harbor Grace) at such times and for such periods of time at each place as may from time to time be prescribed by proclamation of His Excellency the Governor, which proclamation shall for the purposes of this chapter have the force and effect of law as if enacted in this chapter.

3 The said Courts shall have power to hear and determine summarily all civil causes over which the Courts of Sessions now have jurisdiction, together with all civil causes whatever to the amount of fifty dollars, except where the title to lands may be involved, and except actions for libel or slander, replevin, malicious prosecutions and actions against any Justice of the Peace, or other public officer for acts done in the execution of his duty, if such Justice or officer object thereto: Provided that the jurisdiction of the Harbor Grace District Court, beyond the electoral district of Harbor Grace, shall be exercised only in cases in which the Court of Sessions of the other districts have not at present a jurisdiction.

4. The said District Courts may respectively sit without proclamation or formal adjournment at the Court House, or in such other buildings as may be used for that purpose.

5. There shall be two Judges of the Central District Court who shall be Barristers of five years standing, and there shall be one Judge of the Harbor Grace District Court.

6. The Judges of the Central District Court may sit together or apart as business may require.

7. The Judges of the said District Courts shall be *ex officio*, Stipendiary Magistrates, Police Magistrates, and Justices of the Peace for the island of Newfoundland and its dependencies, and as such may have and exercise inside and outside the limits of the Central District and Harbor Grace District Courts, the same jurisdiction, powers and authority as are had and exercised by Stipendiary Magistrates within the Central District and the limits of the Harbor Grace District Court.

8. A plaintiff shall not divide any cause of action for the purpose of bringing two or more suits in the said District Courts respectively, but he may abandon the excess and recover to any amount, not exceeding fifty dollars.

9. If any person duly summoned to appear in either of the said Courts, to give evidence in a cause pending therein, neglect or refuse to appear, and no just cause shall be shown for such neglect or refusal, and proof be made of legal service of a summons, and that conduct money was tendered to him for his expenses, and also proof that such person is a material and necessary witness in the hearing of the cause, a Judge of the said Court may issue a warrant to bring such person before the said Court, at a time to be mentioned therein, to testify as aforesaid, and should such witness refuse to be sworn and give evidence the said Judge may commit him for contempt to the common jail or penitentiary, within the said Judge's district, unless in the meantime the said witness shall consent to be examined and give evidence.

10. The said District Courts shall have power to order a *fieri facias*, or warrant of execution, to be issued after judgment given, and also to attach, under final process, money, goods, debts and effects in the hands of any third party, and to summon and compel, by warrant, the attendance of any party residing or being within the jurisdiction of the said Court for examination, and to make and enforce the observance of such order thereon as to the said Court shall appear just: Provided, that no such attachment shall affect executory contracts or debts not actually due.

11. No plaint lawfully entered in the said District Courts shall be removed or removable therefrom into the Supreme Court by any writ or

process, unless the cause of action shall exceed twenty dollars or such amount be involved therein, and then only by leave of a Judge of the Supreme Court in St. John's, or on circuit, in cases which shall appear to him fit, and on such terms as to payment of costs or otherwise as such Judge shall order; and such removal shall be had upon rules or orders *nisi* and absolute in the first instance, without any writ of *certiorari*.

12. If any person shall feel aggrieved by any order or judgment of either of the said District Courts, to any amount exceeding twenty dollars, or involving such amounts, he shall have liberty to appeal from the Central District Court to the then next sitting of Her Majesty's Supreme Court in St. John's and from the District Court of Harbor Grace to the then next sitting of the Supreme Court on circuit at Harbor Grace or Brigus: Provided the same be entered within two days after such order or judgment shall have been made or given, and, if required by the Judge of the District Court, recognizance or other security with or without surety, shall be entered into to pay the said claim and all costs.

13. The Judges of the Central District Court appointed under this chapter shall receive annually as salaries two thousand two hundred dollars each, and the Judge of the Harbor Grace District Court shall receive annually as salary the sum of two thousand and fifty dollars.

14. The said District Judges shall not practice in any profession or business or hold any other office of profit or emolument under the Crown, or take any fee or payment for any official act.

15. The Clerk of the Peace for the Central District shall be Clerk of the Central District Court, and the Clerk of the Peace at Harbor Grace shall be Clerk of the Harbor Grace District Court.

16. The said District Courts shall have power to entertain, hear and determine actions for the wrongful detention of goods and chattels, in which the specific return of the said chattels is sought, and where the value thereof does not exceed two hundred dollars; and in the event of a judgment for the plaintiff, and in case the defendant shall appeal against the said judgment, the said District Court may order the defendant to deliver the said goods and chattels to the plaintiff upon such terms and conditions as to security or otherwise, as the said Court shall consider just and reasonable: Provided, that in case of appeal by the defendant, he shall be entitled, if the Supreme Court shall so order, to have the question of his right to the said goods and chattels tried by a jury, as if the action had originally commenced in the Supreme Court. This section shall not apply to actions for the recovery of goods and chattels taken under a distress for rent.

17. The District Courts may entertain defences by way of counter-claim or of equitable defence; but where any such defence or counter-claim

of the defendant involves matter or amount beyond the jurisdiction of the Court, such defence or counter-claim shall not affect the competence or the duty of the Court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the Court has jurisdiction to administer shall be given to the defendant upon any such counter-claim: Provided always, that in such case it shall be lawful for the Supreme Court, or any Judge thereof, if it shall be thought fit, on the application of any party to the proceeding, to order that the whole proceeding be transferred from such District Court to the Supreme Court, or Judge thereof; and in such case the record in such proceeding shall be transmitted by the District Court to the Supreme Court; and the same shall thenceforth be continued and prosecuted in the Supreme Court as if it had been originally commenced therein

18. The said Judges of the District Courts shall make rules for—

- (1) Regulating the sittings of the said District Courts;
- (2) Regulating the pleading, practice and procedure in the said District Courts;
- (3) Regulating the granting of appeals in all matters over which the Supreme Court has appellate jurisdiction;
- (4) And generally for regulating any matter relating to practice and procedure of the said District Courts, or to the duties of the officers thereof, or to the costs of proceedings therein, and every other matter deemed expedient for the better attaining the ends of justice, advancing the remedies of suitors and carrying into effect this chapter.

Such rules, before they shall come into operation, shall first obtain the sanction and approval of the Judges, or a majority of the Judges, of the Supreme Court, and shall be published in the *Royal Gazette* for at least one month.

19. Upon the trial of any cause, it shall be the duty of the Judge to take the evidence of the witnesses, fully in writing, together with his rulings on the admission or rejection of evidence.

20. The Solicitor on either side, upon the said Judge ruling against him on a question of evidence, may reduce said question to writing and hand the same to the Judge who shall transcribe the same on his minutes or attach the same thereto, and the said Judge shall thereupon enter upon his minutes his rulings thereon.