

## CHAPTER 53.

### Of the Courts of Session, Stipendiary Magistrates and Justices of the Peace.

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#### SECTION

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1. Courts of General and Quarter Sessions shall be holden in this island and its dependencies at such places with jurisdiction over such extent of district as hath been heretofore appointed, or as may be hereafter appointed by the proclamation of the Governor.

2. The Courts of General and Quarter Sessions shall be holden on the first Monday of January, April, July and October, and shall sit by adjournment from time to time until the business pending therein respectively shall be disposed of, and there shall be no necessity for any proclamation thereof.

3. The said Courts may hear and determine in a summary way all civil actions for the recovery of debt or damages to the amount of twenty-five dollars, save actions in which the title to any land or tenement may be in question; and except actions for libel or slander, replevin, malicious prosecution, and actions against any Justice of the Peace or other public officer for acts done in the execution of his duty; and may hear and determine all disputes to any amount concerning the wages of servants in the fishery, the supply of bait, and the hiring of boats for the fishery, and the wages or share of seals of any person engaged in the seal fishery; provided that this section shall not apply to any claim or dispute in reference to damages for the alleged wrongful dismissal of any such persons engaged in the seal fishery where the damages claimed shall exceed forty dollars.

4. The Court of Sessions for the transaction of civil business may be held by one Stipendiary Magistrate.

5. Stipendiary Magistrates out of session may exercise the like jurisdiction in civil cases as the Courts of General and Quarter Sessions, with the like powers and authorities.

6. Any such Stipendiary Magistrate shall also have and exercise the like power, authority and jurisdiction, in the hearing and determining of summary proceedings on complaints, and the carrying out of any conviction thereon, as any two or more of Her Majesty's Justices of the Peace now or hereafter may exercise under any law that may be in force in this colony; and shall have the same power and authority to require and compel the attendance of witnesses.

7. Persons charged with offences before a Magistrate or Justice in one district may be committed for trial in the Supreme Court in any other district, or may, although committed in or to one district, be indicted and tried in another as justice and convenience may require, and a person may be charged in one place or district and the investigation continued and commitment, if any, made in another place or district; and for such purposes Magistrates and Justices shall exercise all necessary powers of removal and examination of witnesses, and for the purpose of this section, shall be regarded as Magistrates for this colony and its dependencies, and for all places and districts within this colony and its dependencies.

8. Any of the said Courts of Sessions, or Stipendiary Magistrates, before whom judgment shall be recovered, may attach moneys, goods, debts and effects, in the hands of any third party, and summon and compel by warrant, if necessary, the attendance of any party for examination, and make and enforce the observance of such order thereon as to the said Courts or Magistrates shall appear just: Provided that no such attachment shall affect executory contracts or debts not actually due.

9. Justices of the Peace shall have and exercise, in proceedings of a criminal or other nature, the like powers, authorities and jurisdiction, where the same shall not be inapplicable, as Justices of the Peace in England may now or hereafter by law exercise there, except as may be otherwise provided by local enactment.

10. Whenever the decision of any Justice or Justices is called in question in any superior court of common law, by a rule to show cause or other process issued upon an *ex parte* application, it shall be lawful for any such Justices to make and file in such court an affidavit, setting forth the grounds of the decision so brought under review, and any facts which he may consider to have a material bearing upon the question at issue, without being required to pay any fee in respect of such affidavit, and such affidavit may be sworn before a Commissioner authorized to take oaths, and may be forwarded, by post, to the Clerk of the Court for the purpose of being filed.

11. Whenever any such affidavit has been filed, the Court shall, before making the rule absolute against the Justice or Justices, or otherwise determining the matter so as to over-rule or set aside the acts or decisions of the Justice or Justices to which the application relates, take into consideration the matters set forth in such affidavit, notwithstanding that no counsel appear on behalf of the said Justices.

12. Whenever any building or property shall be injured or destroyed by fire, the Stipendiary Magistrate or Justice for the district in which such fire shall occur, or such Justice as the Governor in Council may appoint therefor, shall make an investigation to ascertain the cause or origin of the fire; and such Magistrate or Justice may enforce the attendance of such persons, to give evidence before him, as he may require, by summons or warrant, and examine them under oath; and the proceedings and all depositions connected therewith shall be returned to the Attorney General for such further proceedings as may be prescribed by law.

13. In all cases of persons slain, drowned, suddenly dead, *felo de se* or dead in prison, or in cases where the medical attendant on any deceased person shall refuse to certify that such deceased person died from natural causes, an enquiry respecting the death of such person shall be held by a Stipendiary Magistrate and for that purpose in addition to all other powers possessed by him such Stipendiary Magistrate shall have and exercise all the powers excepting the power of summoning juries which now are or may hereafter be vested in a coroner under the law of England and the proceedings in such enquiry and all depositions connected therewith shall be transmitted to the Attorney or Solicitor General for such further proceedings as may be required by law.

14. The following fees shall be allowed and paid on such enquiries:—

Fee for one medical witness	...	...	...	\$5.00
Every necessary post mortem examination	...	...	...	5.00
Every necessary witness (each day's attendance)	...	...	...	75

15. In all places where there shall be no resident Stipendiary Magistrate or when he shall be absent, any Justice of the Peace in or near the locality shall and may perform and exercise all the functions, powers and authorities, which are or might be exercised or performed by a Stipendiary Magistrate under the provisions of these Consolidated Statutes.

16. A Stipendiary Magistrate or Justice of the Peace in any district or place where there shall be no Clerk of the Peace, or in his absence, may perform the duties of such officer.

17. No conviction or other proceeding by any Stipendiary Magistrate or Justice of the Peace shall be quashed or set aside for want of form only.

18. The following fees and costs shall be chargeable and taken in the several Police Offices, and in the several Courts of Session in this Colony:

FEES PAYABLE TO THE CLERK OF THE PEACE IN CIVIL OR SUMMARY  
CRIMINAL CASES.

Summons or subpoena	...	...	...	...	...	\$ 25
Hearing of every cause	...	...	...	...	...	25
Entering proceedings to judgment	...	...	...	...	...	25
Warrant in execution	...	...	...	...	...	25
Recognizance	...	...	...	...	...	25
Every oath	...	...	...	...	...	25

FEES TO CLERKS OF THE PEACE IN CASES OF FELONY OR MISDEMEANOR,  
BEFORE A JUSTICE OF THE PEACE.

Deposition or examination	...	...	...	...	\$ 50
Summons	...	...	...	...	25
Subpoena	...	...	...	...	25
Warrant	...	...	...	...	30
Commitment	...	...	...	...	30
Recognizance of prosecuting witness or other person	...	...	...	...	30

FEES PAYABLE TO CONSTABLE OR BAILIFF.

For service of summons or subpoena	...	...	...	\$ 25
Executing every warrant to arrest the person	...	...	...	50
If the service or execution of the process shall require the officer to travel beyond the distance of two miles, he shall be allowed for every mile travelled by him for such purpose beyond that distance, the sum of	...	...	...	10
For execution of any warrant, order, or final process of or from a Justice	...	...	...	25
When the levy under warrant, order, or final process shall exceed five dollars, then there shall be allowed to such officer on such levy, in addition to the above fee of twenty-five cents, five per cent.	...	...	...	

WITNESSES' FEES.

For each day's attendance of a witness	...	...	...	\$ 75
All travelling, to be computed from the residence of the witness to the place of trial and then back again, per mile	...	...	...	10

FEES OF JAILER OR KEEPER OF LOCK-UP HOUSE.

For every person committed to gaol	...	...	...	\$ 50
For every person discharged therefrom except insolvents	...	...	...	50

## BASTARDY CASES.

## FEES TO BE RECEIVED BY THE CLERK.

For the examination of the party complaining	...	...	\$ 25
Warrant to apprehend mother, or reputed parent	...	...	50
Bond to appear, to maintain or perform order of filiation	...	...	1.25
Order of filiation	...	...	50
Every commitment	...	...	40
Oath	...	...	25

19. A printed table of the foregoing fees and costs shall be posted up in a conspicuous place in every Police Office and Court of Sessions in this Colony for public inspection.

20. Any person taking greater fees or costs in any Police Office or Court of Session than the fees or costs hereinbefore mentioned, shall for each offence forfeit and pay to Her Majesty the sum of fifty dollars.

21. From and after the passing of this chapter all fees paid into the office of the several Clerks of the Peace shall be accounted for quarterly by them, and be certified by the Court of Sessions, or a presiding Justice thereof; and the total amount of such fees shall be paid into the hands of the Receiver General for the use of the colony, and a detailed annual statement of such fees shall be laid before the Legislature.

22. Stipendiary Magistrates, on that part of the coast of Newfoundland extending from Cape Ray *via* Cape Norman to Cape John, shall have all the jurisdiction, powers and authority conferred upon the Judges of the Central District Court, as provided by Chapter 52 of these Statutes. And in all actions *ex contractu*, the said Magistrates shall have jurisdiction to the amount of two hundred dollars.

23. If any person shall feel himself aggrieved by any order or judgment of such Stipendiary Magistrate in a civil cause to any amount exceeding forty dollars, he shall have liberty to appeal to the Supreme Court in St John's, or on circuit, and if required by the Magistrate, recognizance or other security, with or without surety, shall be entered into to pay the said claim and all costs.

24. The Judges of the Supreme Court may prescribe rules for regulating the practice and procedure of the said Magistrates' Courts, and all appeals therefrom. And such rules when made, shall have the force and effect of law, as if specially enacted in this chapter.