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THE NEW-BRUNSWICK ROYAL GAZETTE



VOLUME XIV.]

TUESDAY, MARCH 27th 1827.

[NUMBER 4.]

THE GAZETTE.

BY AUTHORITY.

In Council, 14th Feb. 1827.

It having been represented that many lots on the Chepody Road, to which Persons residing in various parts of the Province, pretend to have claims, are still unimproved; and some of these claimants have offered their lots for sale: It is therefore ordered that unless the claimants of these lots do apply for, and take out their Grants, and commence building and improving on their respective allotments, within one month, their lots shall be forfeited, and will be then open to application.

Extract from the Minutes.

WM. F. ODELL.

NEW-BRUNSWICK,

In Chancery. The eighth day of March in the eighth year of the Reign of King George the Fourth.

Between Ward Chipman Complainant and James M'Ver Defendant.

FORASMUCH as the Court was this day informed by Mr. R. F. Hazen of Counsel for the Complainant, that the Complainant on the fourteenth day of February one thousand eight hundred and twenty-seven filed his Bill in this Court against the said defendant, as by the certificate of the Register of this Court appears and took out process of Subpoena, returnable on the Saturday next after the third Tuesday in February then next requiring the said defendant to appear and answer the same, but that the said defendant James M'Ver, is gone out of the limits of this Province and has been absent therefrom for the space of twelve months last past as by affidavit appears and the said certificate and affidavit being read, and the truth of the above allegations being made out to the satisfaction of this Court, It is ordered that the said defendant do appear to the Complainant's Bill on or before the ninth day of September next.

By the Court.

ROBERT F. HAZEN, Complainant's Solicitor.

NEW-BRUNSWICK,

In Chancery. The eighth day of March in the eighth year of the Reign of King George the Fourth.

Between Ward Chipman Complainant and David Swan impleaded with Matthew Graham Defendants.

FORASMUCH as the Court was this day informed by Mr. R. F. Hazen of Counsel for the Complainant, that the Complainant on the twenty-fourth day of August one thousand eight hundred and twenty-six, filed his Bill in this Court against the said David Swan and Matthew Graham, as by the certificate of the Register of this Court appears and took out process of Subpoena returnable on the Saturday next after the second Tuesday in October then next, requiring the said David Swan and Matthew Graham to appear to answer the same, but that the said David Swan is gone out of the limits of this Province and has been absent therefrom for the space of twelve months last past as by affidavit appears, and the said certificate and affidavit being read, and the truth of the above allegations being made out to the satisfaction of this Court, It is ordered that the said David Swan do appear to the Complainant's Bill on or before the ninth day of September next.

By the Court.

ROBERT F. HAZEN, Complainant's Solicitor.

NEW-BRUNSWICK,

In Chancery. The eighth day of March in the eighth year of the Reign of King George the Fourth.

Between Ward Chipman Complainant and Niel Friell Defendant.

FORASMUCH as the Court is this day informed by Mr. R. F. Hazen, of Counsel for the Complainant, that the Complainant on the fourteenth day of February one thousand eight hundred and twenty-seven filed his Bill in this Court against the said defendant, as by the Certificate of the Register of this Court appears and took out process of Subpoena returnable on the Saturday next after the third Tuesday in February, then

requiring the said defendant to appear and answer the same, but that the said defendant Niel Friell, is gone out of the limits of this Province, and has been absent therefrom for the space of twelve months last past as by affidavit appears, and the said Certificate and affidavit being read and the truth of the above allegations being made out to the satisfaction of this Court, It is ordered that the said defendant do appear to the Complainant's Bill on or before the ninth day of September next.

By the Court.

ROBERT F. HAZEN, Complainant's Solicitor.

In the Matter of Joseph Kenah Esquire, a Debtor departed from this Province.

NOTICE is hereby given that a general meeting of the Creditors of the above named Joseph Kenah Esquire, is requested on Wednesday the seventh day of March next at 12 o'clock at noon, at the Office of George F. Street Esquire, Frederickton, to examine and see the debts due to each person ascertained; at which time all Creditors are expected to come prepared to substantiate their demands against the said Joseph Kenah, by proof, attestation or otherwise, to the satisfaction of the Trustees.

GEORGE F. STREET, GEORGE MINCHIN, H. G. CLOPPER, Trustees.

Frederickton, 16th December 1826.

BY AUTHORITY.

An Act to continue an Act intitled "An Act to authorize the Justices of the County of Northumberland to regulate the grazing and depasturing of certain Tracts of land within that County."

Passed the 19th March 1827.

BE it enacted by the Lieutenant-Governor, Council and Assembly, That an Act passed in the seventh year of the Reign of His Majesty King George the fourth, intitled "An Act to authorize the Justices of the County of Northumberland, to regulate the grazing and depasturing of certain tracts of Land within that County," be, and the same is hereby continued and declared to be in full force for one Year.

An Act to prevent unnecessary delay and expence in proceedings against persons having privilege of the General Assembly.

Passed the 19th March 1827.

WHEREAS the mode of proceeding against persons having privilege of the General Assembly by Distringas is extremely dilatory and expensive.

I. Be it enacted by the Lieutenant Governor, Council and Assembly, That from and after the passing of this Act, when any Summons shall be sued out against any Member of His Majesty's Council, a Member of the House of Assembly, or other persons having privilege of the General Assembly, if the Defendant or Defendants shall not appear at the return of the Summons, or within twenty days after such return, in every such case it shall and may be lawful to and for the Plaintiff or Plaintiffs, upon affidavit being made and filed in the proper Court, of the personal service of such Summons, to enter an appearance or appearances for the

Defendant or Defendants, and to proceed thereon as if such Defendant or Defendants had entered his or their appearance.

II. Provided nevertheless, and be it further enacted, That nothing in this Act contained shall extend or be construed to subject any persons whatsoever, entitled to privilege of the General Assembly, to be arrested, restrained or imprisoned, during the term of such privilege; but that every such person shall continue to be exempt therefrom in like manner as if this Act had not been made.

An Act further to continue an Act intitled "An Act for granting further aid in support of the Grammar School in the Town of Saint Andrews."

Passed the 19th March, 1827.

BE it enacted by the Lieutenant-Governor, Council and Assembly, That an Act made and passed in the sixth year of the Reign of His late Majesty King George the third, for granting further aid in support of the Grammar School in the Town of Saint Andrews, be, and the same is hereby continued and declared to be in full force for two Years.

An Act for the more easy assessment of damages in actions on Bonds payable by Instalments, and other similar Instruments, and for the more convenient service of Writs of Scire Facias.

Passed the 19th March, 1827.

WHEREAS much inconvenience and expence are incurred in actions brought upon Bonds or on Penalties for the non-performance of Covenants and Agreements contained in any Indentures, Deeds or other Writings in consequence of the Law now in force requiring the Damages on breaches assigned or suggested on the Record in all cases to be assessed after Judgments upon Demurrer, or by Confession or default by Juries for that purpose to be summoned;—And whereas it is considered that in many of the said Cases the Damages may be assessed by the Court in which such actions are brought, which will much lessen the expence and inconvenience of such proceedings.

I. Be it therefore enacted by the Lieutenant-Governor, Council and Assembly, That from and after the passing of this act in all actions in any of His Majesty's Courts of Record in this Province, upon any Bond or Bonds conditioned for the payment of money by instalments, or for the performance of Agreements or Awards, where such Agreements or Awards are expressed only for the payment of any sum or sums of Money: And in all Actions for any penal sums for non-performance of any Covenants or Agreements in any Indenture, Deed or Writing contained, where such Covenants or Agreements are only for the payment of monies, in which Judgment shall be given for the Plaintiff or Plaintiffs, upon Demurrer, or by Confession, or Nihil dicit; the truth of all breaches assigned or suggested on the Record may be inquired of, and the Damages thereupon assessed by the Court without the intervention of a Jury; the costs and charges of such proceeding to be borne by the Defen-

dant or Defendants; which inquiry and assessment shall be entered upon the Record; and Execution may thereupon be taken out for the Damages so assessed, together with Costs of Suit, in like manner as if such Damages had been assessed by a Jury in the manner heretofore accustomed.

II. Provided always, and be it further enacted, That in each case such judgment shall, as now accustomed, remain, continue, and be as a further security to answer to the Plaintiff or Plaintiffs, and his or their Executors or Administrators, such Damages as shall or may be sustained for further breach of any Condition or Covenant in the said Bond, Indenture, Deed or Writing contained, upon which the Plaintiff or Plaintiffs may have a Scire Facias upon the said Judgment against the Defendant or against his Heir or tenants, or his Executors or Administrators suggesting such other breach or breaches, and to summon him or them respectively to shew cause why Execution shall not be had or awarded upon the said Judgment; and if no Appearance be entered by the Defendant or Defendants upon such Scire Facias, the Courts in which such Actions have been brought, are respectively authorised and empowered to assess such further Damages, and to award Execution for such Damages, together with the costs and charges of such proceeding, in manner as hereinbefore directed: And so in case of any further breaches a further assignment or suggestion may be made, and the like proceedings may be had as hereinbefore directed.

III. Provided nevertheless, and be it further enacted, That nothing in this Act contained shall extend or be construed to prevent the Defendant or Defendants from having a Jury summoned to assess the Damages upon the breaches assigned in the manner heretofore accustomed; provided he, she, or they give Notice to the Plaintiff or Plaintiffs of such wish or intention, within ten days after Judgment is signed in the action, or such Scire Facias served. And provided also, that the Court in which such Action is brought, shall have full power to order and direct the Damages to be assessed by a Jury in any cases where the same may appear proper or expedient; and to award Execution thereupon in the manner in and by this Act directed.

IV. And whereas it is expedient to provide for the more easy and effectual service of writs of Scire Facias. Be it further enacted that the personal services of a Copy of a writ of Scire Facias shall in all cases be taken and considered as good service of such writ, and as tantamount to a return of Scire Facias by the Sheriff, provided an affidavit be duly made and filed of such personal service; and that such writ may be directed to the Sheriff of any County within the Province, wherein the person or persons to be served therewith, may be found, whether it be the same or a different County, from that in which the Court sits, or in which the venue is laid; And also that such writ of Scire Facias may be so personally served in any County of this Province, notwithstanding it may be directed to the Sheriff of any other County within the same.