

XXIV.

An Act relating to the offices of the Clerk of the Crown on the Circuits and the Clerk of the Circuits.

Sec.

- 1 Offices abolished.
- 2 Governor in Council to appoint officer in each County to perform duty.
- 3 Former Acts to apply to persons so appointed.
- 4 Persons so appointed to receive same fees as heretofore paid.
- 5 Title of persons so appointed.
- 6 Duties to be performed.

Sec.

- 7 Sec. 5, cap. 30, Title iii, repealed.
- 8 Postea in cases not finally settled, by whom entered,
- 9 Clerks of Courts under this Act to be sworn.
- 10 All examinations by Justice of Peace or Coroner to be transmitted to Clerk.
- 11 When Act comes into operation.

Passed 23rd March 1868.

BE it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. The offices of the Clerk of the Crown on the Circuits and Clerk of the Circuit Courts are hereby abolished.

2. The Governor in Council is hereby authorized and empowered to appoint an efficient person in each County, or City and County in this Province, whose duty it shall be to perform, within the said County, or City and County for which he is appointed, all the duties and Acts heretofore devolving upon the Clerk of the Crown on the Circuits and Clerk of the Circuit Courts within said County, under and by virtue of any law, usage or custom now existing in this Province, and for this purpose the powers and duties heretofore conferred and imposed by any law, usage or custom existing in this Province, upon the said Clerk of the Crown on the Circuits and the Clerk of the Circuit Courts, are hereby conferred and imposed upon such person so to be appointed within the County, or City and County for which he is appointed.

3. Every Act of Assembly, and every part of any Act of Assembly, giving any powers to, or imposing any duty or duties upon, either the Clerk of the Crown on the Circuits or the Clerk of the Circuit Courts, shall apply to the person so to be appointed within the County, or City and County for which he shall be appointed, as fully and to all intents and purposes, and with the like force and effect as if the same were herein expressly enacted with reference to each Clerk to be appointed; and such person shall immediately upon being appointed have and exercise each and all powers and authorities as the Clerk of the Crown on the Circuits and Clerk of the Circuits could before the passing of this Act, by virtue of any law, usage or custom in force in this Province immediately preceding the passing of this Act.

4. The said several persons so to be appointed shall each be entitled to demand and receive for the several services rendered and performed by him, the same fees as are now payable to the Clerk of the Crown on the Circuits and Clerk of the Circuit Courts.

5. The several persons so to be appointed shall be called and known as Clerk of the Circuits for the County or City and County of , as the case may be.

6. All papers and documents now required to be made, issued, signed, or prepared, and all duties required to be done and performed by the Clerk of the Crown on the Circuits, or either of them, shall on the appointment of the several persons contemplated by this Act, be made, issued, signed, prepared, performed and done by each Clerk of the Circuits to be appointed by virtue of this Act, within the County or City and County for which he shall be appointed.

7. The fifth Section of Chapter thirty, Title iii, of the Revised Statutes, 'Of certain Salaries,' is hereby repealed.

8. That all Postea in cases tried, but not finally decided

before the passing of this Act, in which the verdict given shall be sustained, shall be entered on the *Nisi Prius* record at any time after the passing of this Act, by the present Clerk of the Circuits, in the same manner and with the same force and effect as if this Act had not been passed.

9. That the several persons to be appointed to the office of the Clerk of the Circuits under this Act, shall each be duly sworn to the true and faithful discharge of the several and respective duties of their respective offices before entering upon the duties of their said offices, before one of Her Majesty's Justices of the Peace for the County for which he shall be appointed; and any Justice of the Peace of the County for which such person is so appointed is hereby empowered and authorized to administer such oath; a certificate of such oath having been duly administered, signed by the Justice administering the same, shall be indorsed on the Commission of such Clerk of the Circuits, and such Clerk shall not be deemed to be appointed until such oath is administered and certificate thereof indorsed as aforesaid.

10. All examinations, inquisitions and recognizances taken after the passing of this Act by any Justice of the Peace or Coroner, shall immediately thereafter be transmitted by such Justice of the Peace or Coroner to the Clerk of the Circuits for the County in which the same may be taken, instead of the Clerk of the Crown on the Circuits as heretofore.

11. That this Act shall come into operation on the first day of May which will be in the year of our Lord one thousand eight hundred and sixty eight.

CAP. XXV.

An Act to exempt the Homesteads of Families from levy or sale on Execution.

Sec.

- 1 Homestead to be exempt from levy; waiver of exemption, how and by whom made; when Act is to come in force.
- 2 When Sheriff shall cause a Homestead to be set off, and how; proviso.
- 3 When Homestead cannot be divided without injury, duty of Appraisers; proviso.
- 4 What judgments or contracts not to be affected by this Act.

Sec.

- 5 Husband not to convey unless jointly with wife.
- 6 Property fraudulently purchased.
- 7 Expenses incurred, how paid.
- 8 When Appraisers neglect or refuse to act, how others are appointed.
- 9 Appraiser violating his oath; penalty.
- 10 Definition of term "Homestead."
- 11 Appraiser's oath.

Passed 23rd March 1868.

BE it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That from and after the first day of July one thousand eight hundred and sixty eight, the Family Homestead of the head of each family shall be exempt from levy or sale on execution on any judgment rendered on any cause of action accruing after the taking effect of this Act, provided such homestead shall not exceed in value six hundred dollars; such homestead shall not be assets in the hands of an administrator for payment of debts, nor subject to the laws of distribution, so long as the widow, or children under age, or any or either of them, shall occupy the same; and no release or waiver of such exemption shall be valid unless made by deed, executed by husband and wife, with all the formalities required by law for the conveyance of real estate; or if the wife be dead, and there be children under age, by such deed, executed by the husband, with the consent of the Judge of Probate for the County in which the land lies, endorsed on such deed.

2. That the Sheriff executing any writ of execution founded on a judgment, such as is mentioned in the first Section of this Act, on application of the debtor or his wife,