



BY AUTHORITY.

ANNO QUADRAGESIMO NONO VICTORIÆ REGINÆ.

## CAP. IX.

An Act respecting the Administration of Justice in Equity.

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| <p>Sec.</p> <p>1 Appointment of Referees.</p> <p>2 Oath to be taken by Referees.</p> <p>3 Enquiries which have been heretofore taken or referred to a Barrister, &amp;c. specially named by Supreme Court in Equity, to be referred to Referees; powers of Referees; proviso.</p> <p>4 Court or Judge or Referee on Order, may obtain assistance from merchants, &amp;c. to determine any matter in issue; remuneration.</p> <p>5 Duties of Referees.</p> <p>6 Matters referred, to be distributed by the Clerk of the Court, who shall nominate and appoint, &amp;c.</p> <p>7 When not necessary to issue a Commission to partition lands.</p> | <p>Sec.</p> <p>8 Referee to be substituted for the three Commissioners to make partition of land.</p> <p>9 Conveyances made by Referee to have same operation as if made by Commissioners.</p> <p>10 When no sale or partition shall be made by a Referee.</p> <p>11 Fees.</p> <p>12 When suit abates by death of sole plaintiff, how suit may be revived.</p> <p>13 Costs.</p> <p>14 In cases of appeal from a Decree, how proceedings may be stayed.</p> <p>15 When Judge shall not act or sit upon hearing of appeal.</p> <p>16 &amp; 17 When Referee is disqualified from acting as Counsel, &amp;c.</p> <p>18 Sec. 59, Chapter 49, Consolidated Statutes, repealed, and new Section enacted.</p> |
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*Passed 2nd April, 1886.*

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

1. There shall be appointed by the Lieutenant Governor in Council for each of the Counties in this Province, and for the City and County of Saint John, persons being respectively Barristers-at-Law of three years standing, to be called Referees in Equity, for the purpose of assisting in the business of the Supreme Court in Equity and the causes and matters belonging thereto, and on any vacancy occurring in such office, to fill such vacancy, of which said Referees in Equity there shall not be more than five for the City and County of Saint John, nor more than three for each of the Counties of York, Northumberland, and Westmorland, nor more than two for each of the other Counties of the Province.

2. Every Referee shall, previously to his executing any of the duties of his office, take the following oath, which the Chief Justice or any one of the Justices of the Supreme Court, or any Judge of the County Court, outside of the Counties of York and Saint John, is hereby authorized to administer:—"I do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and power execute the office of Referee.—So help me God." And shall enter into a Bond to the Crown, with two sufficient sureties to be approved of by the Clerk of the Supreme Court, in the sum of two thousand dollars, conditioned for the faithful performance of his duties as such Referee, and shall file the said Bond with the said Clerk.

3. All enquiries, accounts, sales, references and duties which have been heretofore or could be prosecuted, taken, made, carried out or performed by or referred to a Barrister, or other person specially named or appointed therein by the Supreme Court in Equity or a Judge thereof, under the provisions of Chapter 49 of the Consolidated Statutes, shall be prosecuted, taken, made, carried out or performed by or referred to one of said Referees, instead of such Barrister or other person; and the said Referee shall have respectively all the rights, privileges, jurisdiction and authority as were before the passing of this Act vested in any such Barrister

or person, and the course of practice and proceeding before the said Referees shall, except as herein otherwise provided, be as before the said Barrister or other person prior to the passing of this Act; but nothing in this Act shall affect any proceedings now pending before such Barristers or persons.

4. It shall be lawful, notwithstanding anything in this Act, for the said Court or any Judge thereof, or any Referee on the Order of the said Court or Judge, to obtain the assistance of accountants, merchants, engineers, surveyors, actuaries or other skilled persons, the better to enable such Court, Judge or Referee to determine any matter in issue in any cause or proceeding, whose remuneration shall not exceed the sum of five dollars for each day they are employed, in addition to their travelling expenses, to be paid on the order of the Court or Judge, and taxed as costs in the cause or proceeding.

5. The duties of an examiner shall in all cases be performed by the said Referees respectively, who shall have the same power, jurisdiction and authority in respect thereto, as a person specially appointed as examiner prior to the passing of this Act.

6. The matters to be referred to the said Referees shall be distributed among them by the Clerk of the Court, who shall nominate and select them, having regard in such nomination and selection to the interests and convenience of the parties and to the locality of any lands being the subject-matter of any reference, and subject to the foregoing provision, as near as may be, according to regular and just rotation; and where any order is made at Chambers, the Clerk of the Court shall, on the production to him of such order, endorse thereon the name of a Referee to perform the duties thereunder, and such order so endorsed shall have the same effect as if the name of such Referee had been inserted therein; but this Section shall not interfere with the power of the Court, or a Judge, on application by Petition on affidavit of a party to the suit on good cause shewn, to direct or transfer a reference to any one of the said Referees other than the one named by the said Clerk, regard being also had by the Judge in Equity, in making such change, to the convenience of parties and locality of the lands as above.

7. Whenever in any suit brought or hereafter to be brought for the partition of any lands in which the defendants or any of them have appeared, the Judge determines to decree a partition and it is admitted by the parties, or the Judge is satisfied that it is difficult to make a beneficial partition of the estate, it shall not be necessary to issue a Commission to partition such lands, but the Judge shall decree a sale of the said lands to be made by the Referee, and shall specify whether the said lands be sold in one block or separate blocks, and specify the parcels if he decree a sale in separate parcels, and thereupon the Clerk shall draw up an order directing the Referee to proceed to the sale of such lands in one block or in separate parcels, as directed, and such officer shall proceed to sell the said lands, first giving notice of sale in the manner provided in Section 120 of Chapter 49 of the Consolidated Statutes.

8. A Referee shall, in all cases, be substituted for the three Commissioners to make partition of land under Chapter 49 of the Consolidated Statutes, and the said Chapter shall in all cases where Commissioners in partition are mentioned or referred to, be read and construed as if a Referee had been so mentioned or referred to, subject to the last preceding Section of this Act.