

AN
ORDINANCE

For Regulating Courts of Judicature in the
Province of New-Jersey.

1728.

GEORGE the second, by the Grace of God, of Great Britain, France and Ireland, KING, Defender of the Faith, &c. Whereas the present Ordinance for Regulating Courts of Judicature is found inconvenient to the Inhabitants of this Province, *We have therefore though fit to Ordain, and We do hereby Ordain, Direct and Impower* Every Justice of the Peace residing within any Town or County in the Province of Nova Caesaria or New-Jersey, to have Cognizance of all Causes and Cases of Debt and Trespas, of the Value of *forty Shillings*, or under, All which Causes and Cases shall and may be Heard, Tryed and finally Determined, without a Jury, by any of the said Justices of the Peace, as aforesaid, Excepting such Cases where the Titles of Land are or may be any wise concerned.

AND We do hereby further Ordain and Direct, That Proceſs of Warning against Free-holders and Inhabitants shall be by Summons under the Hand of any of the said Justices of the Peace, directed to the Constable of the Town or Precinct, or to any deputed by him, where the Party Complained against doth dwell or reside. Which Summons shall be served upon the Person or left at the House or Place of Abode of the Defendant, Four Days, at least, before the Time appointed for the Hearing of the Plaint. And in case the Defendant does not appear at the time appointed, on Affidavit made by the said Constable or his Deputy, That the said Summons was duly served on the Defendants Person or left at the Defendants House or Place of Abode, with some of the Family of the said Defendant, the Justice granting such Summons may, and shall not otherwise, proceed to Hear such Cause or Causes, and Determine the same in the Defendants Absence, and grant Execution thereupon, directed to any of the Constables or Deputy Constables, to be levied upon the Defendants Goods and Chatties, and for want thereof upon the Person of the Defendant, which he is hereby Impowered and Directed to execute accordingly.

And We do hereby further Ordain and Direct, That the Proceſs against an Itinerant Person, Inmate or Foreigner shall be by Warrant from any one Justice of the Peace, to be served by any Constable or his Deputy within that County, who shall, by virtue thereof, Arrest the Party, and him safely keep till he shall be carried before the said Justice, who shall and may immediately Hear, Try, and finally Determine all such Causes and Cases of Debt and Trespas, as aforesaid, to the Value of *Forty Shillings*, or under, by Awarding Judgment and Execution. And if Payment be not immediately made, the Constable shall deliver the said Party to the Sheriff of that County, who is hereby Required and Impowered to take him into Custody, and him safely keep until Payment be made of the same, with Charges.

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Provided always, and We do hereby further Ordain and Direct, That an Appeal shall be allowed to the Justices of the same County at the next General Court of Sessions of the Peace held, for any Sum upwards of Ten Shillings, in all Causes or Cases cognizable before them.

And Whereas We are given to understand, that many of the Inhabitants of Our said Province live Remote from the Places in which We have appointed Our Supream Court to be held, and that it will be of great Ease and Conveniency to the said Inhabitants that a Court be held in each County, for the Hearing, Trying and Determining of such Actions and Causes of Actions as shall arise within each of the said Counties, and Determinable by Juries of the same, We being willing and desirous to promote the Ease, Well-being and Security of all Our Loving Subjects, Inhabitants of the said Province of New-Jersey, and that Right and Justice might be distributed among them, and that all matters of Difference may be by their Equals & Neighbours, as nigh as the present Circumstances of Our said Province will admit, according to the good and antient Laws and Usages of Our Kingdom of Great Britain, Do Ordain and Direct, That the County Courts for holding of Pleas, continue to be held and kept in each of the several and respective Counties of Our Province of New-Jersey, to Hear, and by the Verdict of Twelve Good Honest and lawful Free-holders inhabiting within the said respective County where the said Court is held, to Try and Determine all Suits, Controversies, Quarrels and Differences that may arise within the said County between Our Loving Subjects, for any Sum above the Value of Forty Shillings (Causes wherein the Right or Title of any Lands, Tenements or Hereditaments in any wise concerned, Excepted) Which said Suits, Controversies, Quarrels and Differences shall be Tryed and Determined in the said Courts by a Jury of Twelve Good and Lawful Free-holders as aforesaid, and not otherwise.

And Whereas it may so happen, that by the Craft and Artful Practice of the Persons concerned in the said Causes, Quarrels and Controversies Tryable in the said County Court for holding of Pleas, the said Causes, Quarrels and Controversies may be drawn, contrary to Our Royal Intention, from the Examination of the Jury, to the great Delay and Hindrance of Justice, and it may also happen, that upon Special Verdicts given in Our said County Courts for holding of Pleas, and upon the Pleadings, before and after Verdicts, Matters of Law may arise, We have therefore thought fit to Ordain and Direct, That on any Special Verdict found by a Jury in any of the said Courts, or any Joynder in Demurrer, or Pleading before or after Verdict, wherein the matter of Controversy is above Twenty Pounds, whereby any Points of Law may be in issue (such Points of Law as are necessary to be Determined by the Judges of the said Courts, for the Regulation and Information of the Jury, only Excepted) That then and in such Case, the Clerks of any of the said County Courts, respectively, where the same shall happen, shall make up a Record of all the Pleadings or Special Verdicts, as the case may happen, and Transmit the same to the Chief Justice of the Supreme Court, at the next Supreme Court that shall sit after such Joynder in Demurrer, Pleading made or Special Verdict given, that Judgment may be given thereon, by the Justices of Our Supreme Court.

And We do hereby Ordain and Direct, That the Courts of General Sessions of the Peace, and County Courts for holding of Pleas, shall be held and kept in each respective County within this Province, at the Times and Places hereafter

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after mentioned, that is to say, The first and next Court of Sessions and Pleas, at the Times and Places to which the same Courts were respectively last Adjourned, & afterwards, in every year, to be Opened on the following Days, viz.

For the County of *Bergen*, at the Court-house of the said County on the second Tuesday of *June*, First Tuesday of *October*, First Tuesday of *January*, and First Tuesday of *April*.

For the County of *Essex*, at *Newark*, on the third Tuesday of *June*, fourth Tuesday of *September*, second Tuesday of *January*, and second Tuesday of *April*.

For the County of *Middlesex*, at the City of *Perth-Amboy*, on the third Tuesday of *July*, second Tuesday of *October*, third Tuesday of *January*, and third Tuesday of *April*.

For the County of *Somerset*, at the Court-house of the same County, on the second Tuesday of *June*, first Tuesday of *October*, first Tuesday of *January*, and first Tuesday of *April*.

For the County of *Monmouth*, at the Court-house of the same County, on the fourth Tuesday of *July*, third Tuesday of *October*, fourth Tuesday of *January*, and fourth Tuesday of *April*.

For the County of *Hunterdon*, at the Court-house of the same County, on the third Tuesday of *May*, First Tuesday of *August*, fourth Tuesday of *October*, and First Tuesday of *February*.

For the County of *Burlington*, at the Town-house of *Burlington*, on the first Tuesday of *May*, second Tuesday of *August*, first Tuesday of *November*, and second Tuesday of *February*.

For the County of *Gloucester*, at *Gloucester*, on the second Tuesday of *June*, third Tuesday of *September*, fourth Tuesday of *December*, and fourth Tuesday of *March*.

For the County of *Salem*, on the first Tuesday of *June*, third Tuesday of *August*, fourth Tuesday of *November*, and third Tuesday of *February*.

For the County of *Cape-May*, at *Cape-May*, the third Tuesday of *May*, first Tuesday of *August*, fourth Tuesday of *October* and first Tuesday of *February*. And shall sit any time not exceeding Four Days.

And Whereas the sitting of Our Supreme Court of Our said Province of *New-Jersey*, alternately at *Burlington* and *Amboy*, is, by Experience, found to be inconvenient, & to occasion Intricacy in the Administration of Justice, to the great hurt of several of our loving Subjects who have Causes depending in our said Supreme Court. For Remedy whereof, for the future, We have thought fit to Ordain, and do hereby Ordain and Direct, That Our Supreme Court of Our said Province of *New-Jersey* shall sit and be held at the Time unto which the said Court was last adjourn'd, and afterwards there shall one Supreme Court be held on the first Tuesday of *May*, second Tuesday of *August*, first Tuesday of *November*, and third Tuesday of *February*, at *Burlington*, yearly, for the Western-Division of the said Province.

And there shall be one other Supreme Court be held on the second Tuesday of *May*, third Tuesday of *August*, second Tuesday of *November*, and fourth Tuesday of *February*, at *Perth-Amboy*, yearly, for the Eastern-Division of the said Province. Which Supreme Courts shall continue for any term not exceeding Five Days, and are hereby empowered to have cognizance of all Pleas, civil, criminal and mixt, within the respective Divisions of this Province, as fully and amply, to all intents, constructions and purposes whatsoever, as the Courts of *Kings-Bench*, *Common-Pleas* and *Exchequer* have, or ought to have in Our Kingdom of *Great Britain*. In which Courts all and every Person and Persons

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to be held
4 times
year at
Burlington

And 4
times a
year at
Perth-Amboy

Persons whatsoever may commence and prosecute any Action or Suit, Real, Personal or mixt, above the Value of *Twenty Pounds*. And any action, suit or controversy, information, indictment or prosecution depending, or on which Judgment has been given in any of Our inferiour Courts by Law Removeable, vizably *Certiorari*, *Habeas Corpus*, *Writ of Error*; or any other lawful Writ or Method, be removed into Our said Supreme Courts, from any of the Inferiour Courts within Our said Province.

And We do hereby further Ordain and Direct, That the Office of Clerk of the said Supreme Court of Judicature shall be kept by himself or his sufficient Deputy, at *Perth-Amboy* in the *Eastern-Division*, and at *Burlington* in the *Western-Division*, And that all Actions & causes of Actions arising in either the Eastern or Western-Division of this Province, are to be Tried in and a Verdict given by Jurors of that Division only in which the cause of Action shall arise, as near and agreeable to the Laws, Customs and Usages of Our Kingdom of *Great Britain*, as may be.

Provided always, That no Jurys be returned, or any Tryals of Causes be had by the Country in the Terms of *August* or *February*, but the same shall only be for the Returns of other Writs, and Law Proceedings. And all Tryals by the Country, and Returns of Juries to the said Courts shall only be to the Terms of *May* and *November*.

And for the greater ease and benefit of all Our loving Subjects inhabiting within Our said Province of *New-Jersey*, and of all Persons whatsoever, in taking Recognizance of Special Bail upon all Actions and Suits depending, or to be depending in Our said Supreme Courts in Our said Province of *New-Jersey*, *We do hereby Impower* any two of Our Judges of Our Supreme Courts, of which Our chief Justice to be always one, to grant one or more Commission or Commissions under the Seal of the said Supreme Courts, from time to time, as need shall require, to impower such and so many Persons, as by Our said chief Justice and other Judge of Our Supreme Courts aforesaid, shall be thought fit and necessary, in all and every the several Counties in Our said Province of *New-Jersey*, to take and receive all and every such Recognizance or Recognizances of Bail or Bails, as any Person or Persons shall be willing and desirous to acknowledge or make before the Persons so impowered, in any Action or Suit depending, or hereafter to be depending in Our said Supreme Courts of Our said Province of *New-Jersey*, in such manner and form, and by such Recognizance or Bail-piece as the Judges of Our Supreme Courts have here-to-fore used to take the same: Which said Recognizance or Recognizances of Bail or Bail-piece shall be transmitted to some one of the Judges of Our Supreme Courts, and by him received, upon payment of the usual Fees, and Affidavits made, according to the Directions in one Act of Parliament in *England*, made in the fourth & fifth years of the Reign of Our Royal Predecessors, *William and Mary*, King and Queen of *England, Scotland, France and Ireland*, &c. entitled, *An Act for taking Special Bails in the Country, upon Actions and Suits depending in the Courts of Kings-Bench, Common-Pleas and Exchequer at Westminster*; Which Act of Parliament We hereby recommend to Our Judges of our Supreme Courts in our said Province of *New-Jersey*, and to the Persons by them impowered to take and receive Recognizances of Special Bail, as a Direction to govern themselves by, as nearly as the circumstances of our said Province of *New-Jersey* will admit the same to be done.

And Whereas the bringing of Juries and Evidences from the several Counties within our Province of *New-Jersey*, will be at the great charge and expence, of such

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such of our loving Subjects as have causes depending or that will be depending in our Supreme Courts of our said Province of *New-Jersey*, *We do*, for the ease and benefit of our said loving Subjects, *further Ordain*, That our chief Justice or other Justice of our Supreme Courts, shall annually and every year; (if there be occasion) go into every County in our said Province, except the County of *Cape-May*, and there to hold a Court for the Tryal of such causes arising in the several and respective Counties, as are brought to issue in our said Supreme Courts, which causes our chief Justice or other Justices of our Supreme Courts, is hereby impowered to hear and try, by Jurors of the said Counties, & on any Verdict in any of the said Counties, within our said Province, Judgment to give at Our next Supreme Court of Judicature, to be holden at Our City of *Perth-Amboy* for the *Eastern-Division*, or Town of *Burlington* for the *Western-Division*, after such Verdict given in any of the said Counties, within Our said Province of *New-Jersey*. Which Courts for Tryal of Causes shall be held in our several Counties, excepting *Cape-May*, for and during a Term not exceeding *Five Days*; and at the Times and Places following, that is to say,

For the County of *Bergen*, on the first Tuesday of *April* at *Hackinsack*, for the County of *Bergen*.

For the County, of *Essex* on the second Tuesday of *April*, at *Newark*.

For the County of *Sommerset*, on the first Tuesday of *October*, at the Court-House of the same County,

For the County of *Monmouth*, on the fourth Tuesday of *April*, at *Free-hold*.

For the County of *Hunterdon*, on the fourth Tuesday in *October*, at *Trent-Town*.

For the County of *Gloucester*, on the second Tuesday in *June*, at *Gloucester*.

For the Counties of *Salem* and *Cape-May*, the first Tuesday in *June* at *Salem*.

Hereby Requiring and Commanding Our High-Sheriff, Justices of the Peace, the Mayor and Aldermen of any Corporation within any of Our said Counties, and all Officers, Magisterial and Ministerial of any Courts within Our said Counties, to be Attending on Our Chief Justice, or other Justice going the Circuit, at his Coming into and Leaving their several Counties, and during his Abode within the same, on Penalty to be proceeded against according to Law, for their or any of their Neglect and Contempt of Our Royal Authority and Command hereby signified.

And it is further Ordained, That the Commissioners to be appointed for Taking of Special Bails in the respective Counties of this Province, for every Bail-piece taken by them, they shall take the Sum of *Three Shillings*, and no more. And the Commissioners for Taking of Affidavits, for every Sheet in an Affidavit, *One Shilling*, and no more.

In Testimony whereof We have caused these Our Letters to be made Patent, and the Seal of Our Province of New-Jersey to be thereunto Affixed. Witnes Our Trusty & Well-beloved William Burnet, Esq; Capt. General and Governour in Chief of the Provinces of New-Jersey, New-York, and Territories thereon depending in America, and Vice-Admiral of the same, &c. in Council at Perth-Amboy, the 10th Day of February, in the first Year of Our Reign, 1720.

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