

sions of this Act: *Provided*, it shall appear, that the notice required by this Act hath been sufficiently and legally given, and no sufficient reason shall appear why the prayer of the Petitioner should not be granted, otherwise the Court shall order and direct notice of such demand of Partition to be given, either by publication in one or more Newspapers printed in this Province, when the parties concerned reside out of this Province, or by personal notice to be served at least forty days before the ensuing Term, if the party or parties concerned reside within this Province: *Provided always*, that when the person or persons of whom Partition is demanded, reside out of this Province, and have an Agent or Attorney residing within this Province, personal notice of such demand or Partition shall be given to such Agent or Attorney, as is required in the case of Resident Proprietors.

Notice of the Petition to be given to parties interested.

Notice on Agent sufficient when party resides out of the Province.

III. *And be it further enacted by the authority aforesaid*, That if at the first or succeeding Term (in case a continuance hath been granted) after the filing of such Petition, it shall appear to the Court that due notice hath been given, and if no sufficient reason shall appear why Partition should not be made, the Court shall proceed to order such Partition, and shall issue their Writ, directed to the Sheriff of the District in which the Estate or Estates shall or may lie, or to the Sheriff of either of the Districts in which the Estate or Estates shall or may lie, in case such Estate or Estates is or are in more than one District, commanding him by the Oaths of three judicious and disinterested Freeholders of the vicinity, to be appointed by said Court and named in said Writ, who are not of kin to any of the said parties concerned, to cause to be set off and divided to the Demandant in said Petition, such part or proportion of such Estate or Estates as the Court shall have ordered and directed; and in making such Partition, it shall be the duty of said Freeholders to view and examine such Estate or Estates, to set apart the same in such Lot or Lots as will be most advantageous and equitable, having due regard to the improvements, situation and quality of the different parts of such Estate or Estates, and if the bounds or title of any Tract or Tracts, or any part thereof shall be controverted, it shall be the duty of the said Freeholders to separate the same from the uncontroverted part, and to make Partition of the Estate or Estates in such manner, that a due proportion of the controverted as well as the uncontroverted part may be allotted to the Demandant.

After due notice hath been given, Court may order Partition.

Writ to be directed to the Sheriff of the District or Districts where the Lands lie, commanding him, by the oaths of three Freeholders, to make Partition.

How Freeholders to proceed.

IV. *And be it further enacted by the authority aforesaid*, That when the facts alleged in any Petition, for Partition hereafter to be preferred in consequence of this Act, are controverted by any of the Tenants in Com-

Disputed points to be decided as other Issues of Law or fact