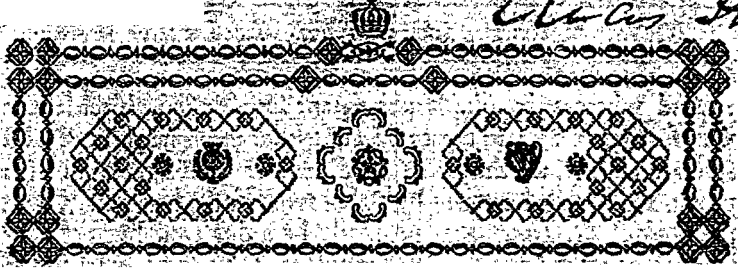


Laws of the Province of
Elias Hardy Esq
1785



L A W S

OF THE

PROVINCE of NEW-BRUNSWICK.

Cap. I.

An ACT for the better ascertaining and confirming the BOUNDARIES of the several COUNTIES within this PROVINCE, and for subdividing them into TOWNS or PARISHES.

WHEREAS his most gracious Majesty, by his royal letters patent under the great seal of this province, bearing date the 18th day of May 1785, was pleased to erect and constitute into one distinct and seperate county, all that tract or district of land situate in this province, bounded southerly on the Bay of Fundy, easterly by Hopewell township, and a line running from the north-west corner of said township, due north into the country, northerly by a line running east-north-east, and west-south-west, from the souther-most point of the Kennebeckais island, lying at the mouth of the river Kennebeckais, where it joins the river Saint John, and westerly by a due north line from point, *Le Proe*, in the Bay of Fundy aforesaid. And did thereby ordain, establish and declare that all and singular the lands and waters comprised within the limits aforesaid, should forever thereafter be, continue and remain a distinct and seperate county, and including the city of Saint John, should be called, known, and distinguished by the name of the city and county of Saint John.

Preamble describing the several counties in the province, viz.

Saint John.

Westmorland.

And whereas by like letters patent since passed, his Majesty was further pleased to erect and constitute into one distinct and seperate county all that tract or district of land situate in this province, bounded easterly by the province of *Nova Scotia*, and the *Gulf of St. Lawrence*, northerly by a due west line running into the country from the northermost point of the large island in the mouth or entrance of *Chediac* bay or harbour, westerly by a line beginning at a point in the north boundary line of *Saint John's* county, due north from *Quaco Head* in the *Bay of Fundy*, and running north into the country until it meets said west line, and southerly by the county of *Saint John* aforesaid, and the *Bay of Chignecto*, and did thereby ordain, establish and declare, that all and singular the lands and waters comprised within the limits aforesaid, should forever thereafter be, continue and remain a distinct and seperate county; to be called, known and distinguished, by the name of the *County of Westmorland*.

Charlotte.

And whereas by like letters patent since passed, his Majesty was pleased to erect and constitute into one distinct and seperate county, another tract or district of land situate in the western part of this province, bounded on the south by the *Bay of Fundy*, on the west by the river *Scudiac* or *St. Croix*, and the western shore of the *Bay of Passamaquady*, including the island of *Grand Manan*, on the east by a due north line from point *Le Proe* in said *Bay of Fundy*, running into the country, and on the north by a due west line commencing in the said north line thirty miles distant from point *Le Proe* aforesaid. And did thereby ordain, establish and declare that all and singular the lands and waters comprised within the limits aforesaid, should forever thereafter be, continue and remain a distinct and seperate county to be called, known and distinguished by the name of the *County of Charlotte*.

Northumberland.

And whereas by like letters patent since passed, another tract or district of land lying within this province, bounded southerly by the county of *Westmorland*, easterly by the *Gulf of St. Lawrence*, and the *Baie des Chaleurs*, northerly by the said bay, and the southern boundary of the province of *Quebec*, and westerly by a continuation of the western boundary line of the said county of *Westmorland*, was also erected into one distinct and seperate county, to be called and known by the name of the *County of Northumberland*.

King's County.

And whereas by like letters patent in like manner since passed, another tract or district of land lying within this province, on both sides the river *Saint John*, bounded on the south by the county of *Saint John*, on the west by *Charlotte* county, on the east by the counties of *Westmorland* and *Northumberland*, and on the north by a line running south-west and north-east from the south point of *Sposn Island*, lying in *Saint John's* river, was also

erected

erected into one distinct and seperate county, to be called and known by the name of *King's County*.

And whereas by like letters patent in like manner since passed, Queen's County. another tract or district of land lying within this province, on both sides the river *St. John*, bounded on the south-east by *King's* county, on the south-west by *Charlotte* county, on the north-east by the county of *Northumberland*, and on the north-west by the south boundary line of *Burton* township, and by a continuation of the said line to the north-east and south-west until it meets the counties of *Northumberland* and *Charlotte* respectively; was also erected into one distinct and seperate county to be called and known by the name of *Queen's County*.

And whereas by like letters patent, in like manner since passed, York. another tract or district of land lying within this province on both sides the river *St. John*, bounded on the south-west by *Charlotte* county, on the north-east by the county of *Northumberland*, on the north-west by the province of *Quebec*, and on the south-east by the north-boundary line of the township of *Magerville*, and by the said line continued to the north-east till it meets the western bounds of *Northumberland* county, and south-west to the eastern bounds of the county of *Charlotte*, was also erected into one distinct and seperate county to be called and known by the name of the *County of York*.

And whereas by like letters patent in like manner since passed, Sunbury. the county of *Sunbury* was limited and bounded on the north-west by the county of *York*, on the north-east by the county of *Northumberland*, on the south-east by *Queen's* county, and on the south-west by the *County of Charlotte*.

And whereas his Majesty did further grant and declare in the said letters patent respectively, that his loving subjects then residing and who thereafter should inhabit within the said counties respectively, might at their own charge erect a court-house and goal in each of the said counties, viz. at the city of *St. John*, in the county of *St. John*; at *Westmorland*, in the county of *Westmorland*; at *St. Andrew's*, in the county of *Charlotte*; at *Kingston*, in *King's* county; at *Gagetown*, in *Queen's* county; and at *Fredericton*, in the county of *York*, which said several towns were thereby declared to be the county towns of the said counties respectively.

Court houses and goals to be erected as follows, viz.

At the city of St. John, at Westmorland, at St. Andrews, at Kingston, at Gagetown, at Fredericton.

And whereas the said several lines limiting and bounding the said respective counties cannot in the present condition of the province be surveyed and finally ascertained, notwithstanding which it is at present necessary that the said several counties be subdivided into towns or parishes for the more convenient and orderly distributions of the respective inhabitants, to enable them in their respective districts to fulfil the several duties incumbent on them, and

Counties subdivided into towns or parishes.

for

for the better administration of justice thro' the same. *Be it therefore enacted by the Governor, Council and Assembly*, that the said several counties so bounded and limited as aforesaid, shall be, continue and for ever remain distinct and seperate counties, to be called, known and distinguish'd by their respective names as aforesaid, and that they shall be, and are hereby respectively subdivided into towns or parishes as follows, viz.

Names and description of towns or parishes in the county of *St. John*, viz.

Portland.

St. Martin's.

Lanvaster.

The said county called the *County of Saint John*, exclusive of the city of *Saint John*, shall be divided into three towns or parishes as follows, viz. the first town or parish to be called, known and distinguish'd by the name of *Portland*, bounded on the south by the *Bay of Fundy*, the eastern shore of the harbour of *St. John*, and the several northern bounds and limits of the said city of *St. John*, on the east by the eastern boundary line of lot No. 1, granted to *Samuel Hughes*, continued to the northern boundary line of the county, said eastern boundary line running from the shore of the *Bay of Fundy*—north fifteen degrees west—on the north by the northern boundary line of said county, and on the west by the eastern shore of the river *St. John*, to the limits of the said city—The second town or parish to be called, known and distinguish'd by the name of *St. Martin's*, bounded on the south by the *Bay of Fundy*, on the east by the eastern boundary line of the county, on the north by the northern boundary line of the county, and on the west by the eastern boundary line of the said town or parish of *Portland*.—The third town or parish to be called, known and distinguish'd by the name of *Lanvaster*, bounded on the south by the *Bay of Fundy*, on the east by the western limits of the said city of *Saint John* and the western shore of the river *Saint John*, on the north by the northern boundary line of the county, and on the west by the western boundary line of the same.

Towns or parishes in the county of *Westmorland*, viz. *Westmorland*, *Sackville*, *Hopewell*, *Hillsborough*, *Moncton*.

The said county called the *County of Westmorland*, shall be divided into five towns or parishes, to be called, known and distinguish'd by the following names, viz. the town or parish of *Westmorland*, the town or parish of *Sackville*, the town or parish of *Hopewell*, the town or parish of *Hillsborough* and the town or parish of *Moncton*, the same towns or parishes to be bounded as in and by the several letters patent or grants of the said towns, under the great seal of the province of *Nova Scotia*, the said towns are bounded and described, which bounds and descriptions are hereby ratified and confirmed as fully and effectually as if the same were in this act particularly repeated and expressed.

Towns or parishes in *Charlotte County*, viz. *St. Stephen*.

The said county called *Charlotte County* shall be divided into seven towns or parishes, as follows, viz. the first town or parish to be called, known and distinguish'd by the name of *St. Stephen*, beginning at the southerly bounds of lot number one hundred and thirteen,

thirteen, on the west side of *Oak Point Bay*, thence bounded northerly and easterly by the southerly line of the said lot, and of lot number one in the back location, the easterly lines of the grant to *Nehemiah Marks* and others to the most northerly angle of said grant, and by the continuation of the northerly line of said grant to the river *St. Croix*, thence westerly and southerly by the bank or shore of said river, and the westerly shore of *Oak Point Bay*, to the first bounds—the second town or parish to be called, ^{St. David.} known and distinguished by the name of *St. David*, bounded westerly by the said town of *St. Stephen*, and the westerly lines of a grant to the *Cape Ann Association*, northerly and easterly by the lines of said grant, and the back line of the lots laid out on the east side of *Oak Point Bay*, and the continuation of that line till it meets the southerly line of the *Cape Ann Association*, southerly by the west side of the *Waughweig*, from the back line of lot number eighty-two, and round *Oak Point* to the beginning of said town of *St. Stephen*.

The third town or parish to be called, known and distinguish'd ^{St. Andrew's.} by the name of *St. Andrew's*, bounded westerly by the back line of lots on the east side of *Oak Point Bay*, (from whence its continuation meets the southerly line of the *Cape Ann Association* and the *Waughweig*) and by the shores of *Waughweig* and *St. Croix* bay, including *St. Andrew's* island, southerly by the shores of *Passamaquaddy* bay, to the division line between lot number twenty and lands reserved for a glebe, minister and school, including *Champcook* island, easterly by a line running from the rear line of said lot number twenty, to the southerly line of the *Cape Ann Association*, the said line dividing in its extent two ranges of lots laid out in the back location, and northerly by a part of the southerly line of *Cape Ann Association*.

The fourth town or parish to be called, known and distinguish'd ^{St. Patrick.} by the name of *St. Patrick*, bounded westerly by the said town of *St. Andrew's*, northerly by the southerly line of the *Cape Ann Association*, and the continuation thereof until it meets the line bounding the surveys, allotments and grants, on the western side the *Maggaugaudquick*, to the rear or westward, easterly by the continuation of the last described line, following its several courses until it meets the bay of *Passamaquaddy*, there forming the western bounds of land granted *Philip Bailey*, and others, southerly by the shores of *Passamaquaddy* bay, from the last bounds to the eastern bounds of said town of *St. Andrew's*, including all the islands within two miles of the shore in this extent.

The fifth town or parish to be called, known and distinguish'd ^{St. George.} by the name of *St. George*, bounded westerly by the said town of *St. Patrick*, northerly by the continuation of the northerly

therly line of the same town of *St. Patrick*; crossing the *Maggaugaudavick*, to the rear or easterly line of the surveys, allotments and grants on the east side of that river, easterly by the said line and by the northerly and easterly lines of Capt. *Clinch's* grant to *Etang* river, thence by the easterly shore of that river and the southerly shore of the coast to the bay of *Passamaquaddy*, and by the easterly shore of that bay crossing the mouth of the *Maggaugaudavick*, and running by the said easterly shore to the eastern limits of the said town of *St. Patrick*, including all islands within two miles of the shore.

Pennfield.

The sixth town or parish to be called, known and distinguish'd by the name of *Pennfield*, bounded westerly by the said town of *St. George*, and the easterly shore of *Etang* river, southerly by the shore of the *Bay of Fundy*, from *Etang* river to point *Le Proc*, easterly by the county line, northerly by the continuation of the northerly line of the said town of *St. George*, until it meets the county line including *Wolf Islands*, and the islands in *Maize's Bay*.

West-Isles.

The seventh town or parish to be called, known and distinguish'd by the name of *West-Isles*, to contain *Deer Island*, *Campo Bello Island*, *Grand Manan Island*, *Moose Island*, *Frederick Island* and *Dudley Island*, with all the lesser islands contiguous to them, not included in the towns before-mentioned.

Towns or parishes in King's County, viz. *Westfield.*

The said county called *King's County* shall be divided into four towns or parishes, as follows, viz. the first town or parish to be called, known and distinguish'd by the name or *Westfield*, bounded by a line running from the mouth of a creek which discharges into the *Long Reach* at *Devil's Head*, north-west to the county line, and south-east to the north-west shore of *Kennebeckacis* bay, and thence crossing the said bay to the point where the county line strikes the south-east shore of said bay.

Suffex.

The second town or parish to be called, known and distinguished by the name of *Suffex* beginning at the point where the county line strikes the south-east shore of *Kennebeckacis Bay*, and continuing along the same to the lower boundary line of a grant to *Studholme*, *Baxter*, and others, thence north to the north-west angle of the said grant, and thence north sixty-five degrees east, to the boundary line of the county.

Springfield.

The third town or parish to be called, known and distinguish'd by the name of *Springfield*, beginning on the county line six miles north-east from its commencement at the lower point of *Spoon Island*, and running thence to the rear of the lots laid out on the north-east side of *Belisse Bay*, at the division line between numbers nineteen and twenty, thence crossing the bay to a design'd road between numbers one and eight of the lots on the south-east

south-east side of said bay, thence along said road and the rear of the same lots to the division line between numbers sixteen and seventeen in the back settlements, and along that line to the rear of the *Kingston* lots, and along the rear of the *Kingston* lots to the town of *Suffex*.

The fourth town or parish to be called, known and distinguished by the name of *Kingston*, beginning at the point where the first described line of the town of *Westfield* strikes the north-west shore of *Kennebeckacs Bay*, and bounded on the south-west by said line, on the north-west by the upper line of the county, to the commencement of the town of *Springfield*; thence along the boundary of the same town till it strikes the line of the town of *Suffex*, at the said grant to *Studholme, Baxter*, and others, and thence along the boundary line of the same town of *Suffex*, to the place of beginning, including *Darling's Island*, and *Long Island*.

The said county called *Queen's County*, shall be divided into four towns or parishes, as follows, to wit: the first town or parish to be called, known and distinguished by the name of *Wickham*, on the east side the river *St. John*, bounded southerly by the lower county line, westerly by the river *Saint John*, to the lower bounds of *Lieut. Col. Spry's* lands, northerly by a line running from the said lower bounds of said land north fifty-four degrees east, thirty miles, easterly by a line running from said extent south; thirty degrees east, until it strikes the lower county line, including the lower *Musquash Island*.

The second town or parish to be called, known and distinguished by the name of *Waterborough*, on the east side the river *Saint John*, bounded southerly by the said town of *Wickham*, easterly by the continuation of the back line of the same town of *Wickham*, north thirty degrees west, until it strikes the upper county line, northerly by said county line, and westerly by the river *Saint John*.

The third town or parish to be called, known and distinguished by the name of *Hampstead*, on the west side the river *Saint John*, bounded southerly by the lower county line, easterly by the river *Saint John*, to the division line between *Natbaniel Jarvis's* lot number thirty-eight, and *George Sweet's* lot number thirty-seven in the *Gage-town* grant, northerly by said division line to the rear of said lots, thence by a line running south fifty-two degrees west to the easterly line of *Charlotte County*, and westerly by *Charlotte County*, including *Long-Island*, *Upper Musquash Island*, and *Spoon Island*.

The fourth town or parish to be called, known and distinguished by the name of *Gage-town*, on the west side the river *Saint*

Saint John, bounded southerly by the said town of *Hampstead*, easterly by the river *Saint John*, northerly by the upper county line, and westerly by *Charlotte County*, including *Grimrofs Island*.

Towns and parishes in *Sunbury*, viz.

Burton.

The said county called the county of *Sunbury*, shall be divided into four towns or parishes as follows, to wit: the first town or parish to be called, known and distinguish'd by the name of *Burton*, on the west side the river *Saint John*, bounded southerly by the lower county line, easterly by the river *Saint John* to the *Oromocto*, northerly by a line running up said river along the middle of its channel to the point of land at its forks in *Shearman's* grant, thence by a line running south fifty-five degrees west, to the easterly line of *Charlotte* county, and westerly by *Charlotte* county, including *Mager's* and *Ox Islands*.

Lincoln.

The second town or parish to be called, known and distinguish'd by the name of *Lincoln*, on the west side the river *Saint John*, bounded southerly by the said town of *Burton*, easterly by the river *Saint John*, to the lower line of *York* county, northerly by said county line, and westerly by *Charlotte* county.

Sheffield.

The third town or parish to be called, known and distinguish'd by the name of *Sheffield*, on the east side the river *Saint John*, bounded southerly by the lower county line, westerly by the river *Saint John* to the lower line of *Nathaniel Underhill's* lot, northerly by said line of said lot, and its continuation twenty-five miles easterly from the river *Saint John*, easterly by a line running from the extent of the last line south forty-five degrees east, until it meets the lower county line, including *Middle Island*.

Magerville.

The fourth town or parish to be called, known and distinguish'd by the name of *Magerville*, on the east side the river *Saint John*, bounded southerly by said town of *Sheffield*, westerly by the river *Saint John*, to the lower line of *York* county, northerly by said county line until it meets the continuation of the easterly line of the said town of *Sheffield*, running north forty-five degrees, west twenty-five miles from the river *Saint John*, on the continuation of *Nathaniel Underhill's* lot, and easterly by the said continuation of the easterly line of the said town of *Sheffield*, including *Oromocto* island.

Towns or parishes in *York* County, viz. *Frederickton*.

The said county called *York County*, shall be divided into seven towns or parishes, as follows, to wit: the first town or parish to be called, known and distinguish'd by the name of *Frederickton*, bounded on the south-east by the lower line of the county of *York*, on the north-west by the lower line of the grant to *Col. Isaac Allen*, and others, to its south angle, on the south-west by a line running from that angle south-east to the lower line of the county, on the north-east by the shore of the river *Saint John*.

The

The second town or parish to be called, known and distinguish'd by the name of *King'sclear*,^{King'sclear.} bounded on the south-east by the town of *Frederickton* and the lower line of the county, on the north-west by the lower line of the town of *Prince William*, and a continuation thereof, twelve miles into the country, on the south-west by a line running from thence south-east to the lower line of the county, and on the north-east by the shore of the river *Saint John*, including the islands in front.

The third town or parish to be called, known and distinguish'd by the name of *Prince William*,^{Prince William.} bounded on the south-east by the upper boundary line of the town of *King'sclear*, on the north-west by the lower line of block number four, on the upper boundary line of a grant to *Edward Winslow*, Esq. and by a continuation of the same south-west into the country, on the south-west by a continuation of the south-west boundary line of the town of *King'sclear*, and on the north-east by the shore of the river *Saint John*, including the islands in front.

The fourth town or parish to be called, known and distinguish'd by the name of *Woodstock*,^{Woodstock.} bounded on the south-east by the north-west boundary line of the town of *Prince William*, extended twelve miles into the country, on the north by the upper boundary line of a grant to the second battalion of *Delancey's*, and a continuation thereof west into the country twelve miles from the river, westerly and southerly by a line running from thence 'till it strikes the continuation of the upper boundary line of a grant to *John Munroe*, twelve miles from its commencement on the shore of the river *Saint John*, thence running south-easterly 'till it strikes the upper corner of the south-east boundary line, and easterly by the shore of the river *Saint John* including all the islands in front.

The fifth town or parish to be called, known and distinguish'd by the name of *St. Mary's*,^{St. Mary's.} bounded on the south-east by the lower line of the county running thereon thirty miles, westerly and north-westerly by the river *Madam Kefwick*, to the upper boundary line of lands laid out for the *New-York Volunteers*, and by a continuation of the said line north-east into the country, on the north-east by a line running from the upper corner of the south-east boundary line north-west 'till it meets the north-west boundary line.

The sixth town or parish to be called, known and distinguish'd by the name of *Queen'sbury*,^{Queen'sbury.} bounded by the river *Madam Kefwick*, 'till it comes opposite the upper line of lands laid out for the *New-York Volunteers*, thence by a line running west 'till it meets the continuation of the lower boundary line of a tract of land laid out to Capt. *Cunliffe* and others, at the entrance of the *Nar-*

wegack creek, thence by that line to the shore of the river and by the shore of the river *St. John* to the *Madam Kefwick*.

Northampton.

The seventh town or parish to be called, known and distinguish'd by the name of *Northampton*, bounded on the south-east by the north-west boundary line of the town of *Queensbury*, extended twelve miles into the country, on the north-east by a line running from thence north-westerly to the mouth of a river which discharges into the river *Saint John*, at the upper boundary of block-number seven, about two miles and a quarter above the upper end of *Pine Island*, on the north-west and south-west by the shore of the river *Saint John*.

Towns or parishes in *Northumberland*, viz. *New-Castle*.

The said County of *Northumberland*, shall be divided into two towns or parishes as follows, viz. the first town or parish to be called, known and distinguish'd by the name of *New-Castle*, bounded southerly by the north boundary line of the county of *Westmorland*, easterly by the sea-coast, including the islands in front to the northermost point of *Waltham Island*, northerly by a due west line from said point extended 'till it meets a north line drawn from *Okean* river, a branch of the river *Miramichibi*.

Alnwick.

The second town or parish to be called, known and distinguish'd by the name of *Alnwick*, bounded southerly by the north line of said town of *New-Castle*, easterly by the sea shore, including the islands in front, to the north side of the mouth of *Trachady* river, northerly by a due west line from the said north side of the mouth of said river 'till it meets the continuation of the western line of the said town of *New-Castle*. All which said lines of the said towns in the respective counties herein before mentioned are intended and to be considered as lines run by the magnet and not otherwise.

Lines of Towns run by the magnet.

Shire or county towns viz. *Westmorland*, *St. Andrew's*, *Kingston*, *Gagetown*, *Burton*, *Frederickton*, *New-Castle*.

In *Sunbury* the courts to be held at *Magerville*, until a court-house and goal be erected at *Burton*.

And be it further enacted, That the said town of *Westmorland* in the county of *Westmorland*, the said town of *St. Andrew's* in the county of *Charlotte*, the said town of *Kingston*, in *King's* county, the said town of *Gagetown* in *Queen's* county, the said town of *Burton* in the county of *Sunbury*, the said town of *Frederickton* in the county of *York*, and the said town of *New-Castle* in the county of *Northumberland*, shall be for ever hereafter the shire or county towns of the said counties respectively. Provided, That in the county of *Sunbury* the courts may be held in the town of *Magerville*, until such time as a convenient court-house and goal shall be erected in the said town of *Burton*.

Cap. II

An ACT for the REGISTRING of LETTERS PATENT and GRANTS made under the GREAT SEAL of the province of NOVA SCOTIA, of LANDS now situate within the limits of this PROVINCE.

WHEREAS it is necessary as well for ascertaining the rights of the crown as for ascertaining and securing the rights and estates of his Majesty's subjects in this province, that all grants of lands should be publicly registred. Preamble.

Be it enacted by the Governor, Council and Assembly, That all letters patent and grants heretofore made and passed under the great seal of the province of *Nova-Scotia*, of lands, tenements, hereditaments, now situate, lying and being within this province, shall and may be registred at full length by the several grantees therein named, their several and respective heirs and assigns in the office of the secretary and register of the records of this province, within the space of one year. Letters patent and grants under the Great Seal of Nova-Scotia of lands &c. in this province to be registred in the office of the secretary and register of this province within one year.

And be it further enacted, That the said several grantees, their several and respective heirs and assigns, may within the said term of one year, produce to the secretary and register, to be by him entered and registred as aforesaid, any and all such letters patent and grants so made and passed as aforesaid, under the great seal of the said province of *Nova Scotia*, or a copy and copies of the same, duly attested and authenticated by and under the hand of the register of the said province of *Nova Scotia*, or exemplified under the great seal of the same province. And the said secretary and register of the records of this province is hereby authorized and required to register at full length among the records of letters patent and grants of lands made and passed under the great seal of this province, all such letters patent and grants made under the great seal of the said province of *Nova Scotia*, and such copy or copies thereof so duly attested, authenticated and exemplified as aforesaid. Secretary and Register of this province required to register letters patent and grants under the great seal of Nova-Scotia, or copies duly attested, &c.

And be it further enacted, That if any grantee or grantees, their several and respective heirs and assigns, shall neglect to register in manner as is herein provided, any letter patent, grant or grants, made and passed under the great seal of the province of *Nova Scotia*, of lands, tenements and hereditaments, now situate lying and being within this province for a longer term than the said space of one year, such grantee and grantees, their several and respective heirs and assigns, shall be forever after precluded and barred, of and from all rights, title and claim, in and to such lands, tenements and hereditaments, in any such letters patent or grants contained, and all such letters patent and grants not registred as aforesaid, within the term aforesaid, shall be vacated, and cancelled, and are hereby declared to be null and void, and of no effect in law against the King's Majesty his heirs and successors, or against any grantee under the great seal of this province. Letters patent and grants under the great seal of Nova-Scotia, not registred in this province within one year to be void and of no effect against any grant under the great seal of this province.

Cap III.

An ACT for the PUBLIC REGISTRING of all DEEDS, CONVEYANCES, and WILLS, and other incumbrances which shall be made of, or that may affect any LANDS, TENEMENTS, or HEREDITAMENTS, within this province.

Preamble.

WHEREAS by the different and secret ways of transferring, conveying and incumbring lands, tenements and hereditaments, such as are ill-disposed have it in their power to commit frauds, whereby persons who purchase lands, or lend monies on land security, are liable to be injured in their purchases and mortgages, and to be utterly ruined by prior and secret conveyances and fraudulent incumbrances; for preventing whereof,

Deeds, conveyances and wills, may be registred.

I. *Be it enacted by the Governor, Council and Assembly,* That all deeds and conveyances which shall hereafter be made and executed, and all wills and devises in writing, made or to be made and publish'd, where the devisor or testatrix shall hereafter die, of or concerning, and whereby any lands, tenements or hereditaments in this province, may be any way affected in law or equity, may be registred at full length in such manner as is herein after directed; and that every such deed and conveyance, that shall any time hereafter be made and executed, shall be adjudged fraudulent and void, against any subsequent purchaser or mortgagee for valuable consideration, unless such deed and conveyance be registred as by this act is directed, before the registring of the deeds or conveyances under which such subsequent purchaser or mortgagee shall claim; and that every such devise by will shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless such will be registred at such times and in such manner as is herein after directed.

Adjudged fraudulent and void against subsequent purchasers and mortgagees registred.

Registry Office erected in each county.

II. And for the better settling and establishing a certain method, with proper rules and directions for registring such deeds, conveyances and wills as aforesaid, *Be it further enacted,* that in each and every county in this province there shall be erected and establish'd one public office for registring such deeds, conveyances and wills, of and concerning any lands, tenements, and hereditaments, that are situate, lying and being within such county and counties respectively; to be managed and executed, by such fit and able person and persons, as shall thereto be nominated and appointed by the Governor, or the Commander in Chief of this province.

Registry to be appointed by the Governor or Commander in Chief.

III. *And be it further enacted*, That all and every such register and registers shall before he or they enter upon the execution of the said office, be sworn before two of his Majesty's justices of the peace *quorum unus*, in the county where such registers are respectively appointed, or before one of his Majesty's justices of the supreme court of judicature, well, truly and faithfully to execute the same office, which oath such justices are severally impowered and required to administer.

Registers to be sworn.

IV. *And be it further enacted*, That if any such person or persons, so appointed register or registers as aforesaid, shall be guilty of any neglect, misdemeanor, or fraudulent practice in the execution of the said office and offices respectively, such register or registers so guilty as aforesaid, and being lawfully convicted thereof, shall be liable to pay treble damages with full costs of suit, to every person that shall be injured thereby, to be recovered by action of debt, bill, plaint or information, in any of his Majesty's courts of record in this province.

Guilty of neglect &c. to pay treble damages and costs.

V. *And be it further enacted*, That every such deed, conveyance and will, or probate of the same, which is so to be registered as aforesaid, shall be produced to the said register and registers at the time of entering and registering the same, who shall indorse a certificate on every such deed, conveyance, and will, or probate thereof, and therein mention the certain day on which such deed, conveyance or will is so entered or registered, expressing also, in what book, page and number, the same is entered and registered, and shall sign the said certificate when so indorsed; which certificates shall be taken and allowed as evidence of such respective registers in all courts of record whatsoever; and every page of such register books, and every deed, conveyance and will, which shall be entered and transcribed therein, shall be numbered, and the year and day of the month when every such deed, conveyance and will are received, entered and registered, shall be entered in the said register books; and every register shall duly enter and register all deeds, conveyances and wills, or probate of the same, in the same order that they shall respectively come to his hands.

Deeds, &c. produced to the register that indorse a certificate.

which shall be allowed as evidence.

Every page of the register books to be numbered and time of receiving and entering to be mentioned.

Deeds, &c. to be entered in the order of time as received.

VI. *And be it further enacted*, That the due execution of all such deeds and conveyances so to be entered and registered, shall be made evident by the attestation of one or more of the subscribing witnesses thereto, who shall upon oath, or being a Quaker on solemn affirmation, before the register or before the supreme court of judicature, or before any one of the justices of the same court, or before some of the inferior courts of common-pleas in this province, prove the signing, sealing and delivery of such deeds and conveyances; or else the grantor and grantors, and persons so signing, sealing, and delivering such deeds and conveyances, shall before the said register or before one of his Majesty's justices of the courts aforesaid, or before one of his

The execution of deeds to be proved by oath of one or more of the subscribing witnesses,

or by the acknowledgment of grantor, &c.

Wills to be proved by one or more subscribing witnesses or by the probate thereof.

Registers, courts, and justices, to administer oaths, take acknowledgments and enter the same on the deeds, &c.

No deeds, &c. to be entered or registered before proved or acknowledged.

Copies of entries and enrollments where the originals are destroyed to be allowed good and sufficient evidence.

Wills registered within the times limited as in this section valid against subsequent purchasers

Proviso where wills being contested or by other inevitable difficulty not registered within the limited times.

Majesty's justices of the peace, acknowledge his or their signing, sealing and delivering such deeds and conveyances; and in case of wills the same shall be proved by the attestation of one or more of the subscribing witnesses, upon oath, or being a Quaker, upon solemn affirmation, in manner aforesaid, or by due and legal probate of the same: and the said registers respectively, and the several courts and justices aforesaid, are hereby empowered to administer such oaths and affirmations aforesaid, and to take the said acknowledgements as aforesaid, and shall enter a memorandum of the administering and taking the same oaths, affirmations, and acknowledgements respectively, signed with their hands respectively, upon the said deeds, conveyances and wills, with the time when the same was so taken or administered. And no deed, or conveyance, or will, shall be entered or registered, or certificate thereof made as aforesaid, by any register, before such oath, affirmation, or acknowledgment, or probate as aforesaid, thereof duly administered and taken as aforesaid, and a memorandum thereof so entered on the same respectively as aforesaid. And all copies of such entries and enrollments of such deeds, conveyances and wills, so registered at full length, and which copies shall be signed by such register or registers respectively, shall be allowed in all courts of record to be good and sufficient evidence of such deeds, conveyances and wills so registered, in case the same shall be destroyed by fire or other accident.

VII. *And be it further enacted*, That all wills that shall be registered in manner as aforesaid, within the space of six months after the death of every respective devisor or testatrix, dying within this province, or within the space of three years after the death of every respective devisor or testatrix, dying upon or in parts beyond the seas, or within the space of one year after the death of every respective devisor or testatrix in any other parts out of the limits of this province, shall be as valid and effectual against subsequent purchasers, as if the same had been registered immediately after the death of such respective devisor or testatrix; any thing herein contained to the contrary notwithstanding.

VIII. *Provided always*, That in case the devisee, or person or persons interested in the lands, tenements or hereditaments, devised by any such will as aforesaid, by reason of the contesting of such will or other inevitable difficulty, without his, her, or their wilful neglect or default, shall be disabled to exhibit the same, or a probate thereof, for registry, within the respective times herein before limited, and that a memorial shall be entered in the said register office or offices, of such contest or impediment, within the space of six months after the decease of such devisor or testatrix, who shall die within this province, or within the space of three years next after the decease of such person who shall die upon or beyond the seas, or within the space of one year after the death of every respective devisor or testatrix, in any other parts out of the

the limits of this province; then and in such case the registry of such will within the space of six months next after his, her, or their attainment of such will, or a probate thereof, or removal of the impediment, whereby he, she or they were so disabled or hindered as aforesaid, shall be a sufficient registry, within the meaning of this act; any thing herein contained to the contrary thereof in anywise notwithstanding.

IX. *Provided nevertheless*, That in case of any concealment or suppression of any will or devise, no purchaser or purchasers, for valuable consideration, shall be defeated or disturbed in his or their purchase, by any title made or devised by any such will, unless the will be actually registred within three years after the death of the devisor or testatrix.

Wills conceal'd or suppressed, not good against subsequent purchasers unless registred within three years.

X. *And be it further enacted*, That all bargains and sales of any lands, tenements, and hereditaments, by deed indented, or deed poll, and all grants and conveyances whatsoever, made by writing and duly signed, sealed and delivered, and acknowledged by the grantor or grantors, bargainor or bargainors, in such grants, sales, and conveyances, before one or more justice or justices of the peace, (who are hereby impowered, to take and enter on such deeds, bargains and sales, and conveyances, all such acknowledgements according to the intent of this act) which shall be entered and registred at full length, by the said register or registers, in the public office in and by this act erected, in the county and counties where such lands, tenements, and hereditaments are situate, lying and being, shall be good, effectual, and available, to all intents and purposes whatsoever, for the passing and transferring such lands, tenements, and hereditaments, and the estate and possession thereof, to the bargainee and bargainees, grantee and grantees therein named, according to the intents and uses, and purposes in such deeds and conveyances expressed, without livery of seisin, or any other act, or deed, or form, or ceremony whatever.

Bargains and sales of lands, &c. acknowledged and registred as by this act is provided, shall be good and sufficient to pass the estate without livery or seisin.

XI. *And be it further enacted*, That all deeds of bargain and sale, and all other grants and conveyances whatsoever, so executed, acknowledged, and registred in the said public or register office and offices as aforesaid, which shall appear to be so acknowledged and registred by indorsement or certificate thereon, in form aforesaid, and all copies of the registries thereof, remaining in the said register's office or offices, duly attested and certified by the several registers, shall be allowed in all courts where such deeds and conveyances, or copies, shall be produced, to be as good and sufficient evidence as any bargains and sales inrolled in any of the courts of *Westminster*, and the copies of the inrollments thereof are, in any court of *Great-Britain*.

Deeds so registred, and copies thereof, good and sufficient.

Mode of proof
and how regis-
tered where the
grantor lives out
of the province
or dies before
acknowledge-
ment.

XII. *And be it further enacted;* That if the grantor or grantors, bargainor or bargainors, in any deed or deeds, and conveyance of lands hereafter executed, shall live in parts beyond the sea, or out of the limits of this province, or shall happen to die before acknowledgment of such deed or deeds in the manner aforesaid, acknowledgment, certificate and proof of the execution thereof may be made as follows, that is to say, if such grantor or bargainor live within the kingdoms of *Great-Britain* or *Ireland*, the acknowledgment of such deed may be had and taken by and before any judge of any of the courts of king's bench, or common pleas, or baron of the exchequer, or any master in chancery, or any judge or lord of the session in *Scotland*; and if any other part of the *British* dominions, by and before any judge of the supreme or superior court of judicature, in such colony or part of said dominions wherein such grantor or bargainor shall reside, and certified on the said deed or conveyance by and under the hand of such judge or other person so taking the acknowledgment thereof as aforesaid, such certificate being also authenticated, if in the *British* plantations, under the hand and seal of the governor, lieutenant governor or commander in chief of the province where the same shall be made, and if in *Great-Britain* or *Ireland*, the public seal of some corporation, there certifying that all faith and credit ought to be given to the attestation of the person so taking the acknowledgment thereof as aforesaid; and if the grantor or bargainor shall die before the acknowledgment of such deed as aforesaid, proof of the execution thereof may be made by the oath of one or more of the subscribing witnesses thereto, before his Majesty's supreme court of judicature, or any inferior court of common pleas in this province, or before any of the courts of king's bench, or common pleas, or exchequer, in *England* or *Ireland*, or the court of session in *Scotland*, or before the supreme or superior court of judicature, in such other *British* colony as aforesaid. And all such deeds and conveyances, so acknowledged or proved, may be registred, as by this act is provided, and shall have all the force and effect to pass the lands and estate, and possession therein granted or intended to be granted, of deeds and conveyances executed and acknowledged according to the provisions of any other and former clauses and parts of this act, and all such deeds and conveyances, and the registries and copies thereof, certified as in this clause is provided, shall be received to be as good and sufficient evidence as any other deeds, conveyances, registries, or copies in this act mentioned.

Register fees.

XIII. *And be it further enacted,* That every such register shall be allowed, for the entering and registering of all deeds, conveyances, wills, and writings as aforesaid, the sum of two shillings and no more, in case the same do not exceed two hundred words, but if such writing shall exceed two hundred words, then after the rate and proportion of six-pence an hundred for all the words contained therein, over and above the first two hundred words;

words: And the same fees of six-pence for every hundred words, in all certificates, and in all copies given out of the said offices, and no more; and for every search in the said offices one shilling and no more.

XIV. *And be it further enacted,* That every such register shall give due attendance at his office daily, excepting Sundays and holidays, for the dispatch of all business belonging to his office aforesaid, and shall as often as required, make searches concerning all deeds, conveyances, wills and writings, so entered and registred as aforesaid, and give copies and certificates concerning the same under his hand.

Registers to give due attendance, — search for deeds, &c. — give copies, &c.

XV. *And be it further enacted,* That every register at the time of his being sworn into the said office, shall enter into a recognizance, with two or more sufficient sureties, to be taken and approved of by the justice or justices by whom the said oath shall be administered, in the penalty of three hundred pounds to his Majesty, his heirs and successors, conditioned for his true and faithful performance of his duty in the execution of his said office, in all things directed and required by this act; the same to be transmitted within three months after the date thereof, by the same court or justices or justice, into the office of the clerk of his Majesty's supreme court of judicature, there to remain amongst the records of the said court.

To give security in £300.

XVI. *And be it further enacted,* That if any person or persons shall at any time forge or counterfeit any entry of the acknowledgment of any grantor or bargainor in such deed, bargain and sale, or conveyance as aforesaid, or any such memorandum, certificate or indorsement, as is herein mentioned or directed, and be thereof lawfully convicted, such person or persons shall incur and be liable to such pains and penalties as in and by an act made in the fifth year of Queen Elizabeth, intituled, an act against forgery of false deeds and writings, are imposed upon persons for forging and publishing false deeds, charters, or writings sealed, court rolls, or wills, whereby the freehold or inheritance of any person or persons, of, in, or to any lands, tenements or hereditaments, shall or may be molested or charged; and if any person or persons shall at any time forswear himself, or being a Quaker, shall falsely, maliciously and corruptly affirm before any register to be appointed in manner herein after mentioned, or before any court, or judge, or justice, in any of the cases herein mentioned, and be thereof lawfully convicted, such person or persons shall incur and be liable to all the pains and penalties of persons committing, and convicted of wilful and corrupt perjury in any court of record.

Penalty for forging entries, or acknowledgements, &c. and for the forswearing of witnesses to deed, &c.

XVII. *And be it further enacted,* That in case of mortgages, where any mortgage deed shall be registred, pursuant to this act,

Upon certificate and proof that moneys due on

mortgagee's paid register shall make an entry thereof in the margin.

if at any time afterwards a certificate shall be brought to the said register signed by the mortgagee, in such mortgage, his executors, administrators or assigns, and attested by two witnesses, whereby it shall appear that all monies due upon such mortgage, have been paid or satisfied in discharge thereof (which witnesses shall upon their oath, before one of the judges of his Majesty's supreme court of judicature, or before the said register, who are hereby respectively empowered to administer such oath, prove such monies to be satisfied and paid accordingly, and that they saw such certificate signed by the said mortgagee, his executors, administrators, or assigns) that then and in every such case, the said register shall make an entry in the margin of the said registry book, against the registry of the said mortgage deed, that the same was satisfied and discharged, according to such certificate, to which the same entry shall refer, and also to a registry and transcript at full length of the said certificate, which shall be made in the registry books, and he shall also file such certificate, to remain in the said registers office. Or any such mortgagee, his executors, administrators, or assigns, having received full payment and satisfaction for all monies due by virtue of such mortgage, may acknowledge and cause such payment and satisfaction thereof to be entered in the margin of the said registry book, against the registry of the said mortgage deed, and subscribe his proper hand and name thereto, in presence of the said register, who shall also sign his name a witness thereto, which shall for ever after be a full discharge and release of such mortgage.

Mortgagee may discharge the mortgage by entering an acknowledgment of payment and satisfaction in the margin.

This act not to extend to leases not exceeding three years, &c.

XVIII. *Provided always, and be it further enacted*, That this act shall not extend to any lease, not exceeding three years, where the actual possession and occupation goeth along with the lease.

Register offices to be erected in towns appointed by the Governor.

XIX. *And be it further enacted*, That the several registers offices in the several counties of this province which by this act are or hereafter shall be erected and established, shall be held and kept in such convenient towns and places, in such counties respectively, as shall be appointed and ordained for that purpose by the Governor.

In deeds, &c. duly registered, the words *grant*, *bargain* and *sell*, shall be adjudged tantamount to certain express covenants.

XX. *And be it further enacted*, That in all deeds of bargain and sale, and all other grants and conveyances, hereafter registered in pursuance of this act, whereby an estate of inheritance in fee simple is limited to the grantee or bargainee, and his heirs, the words *grant*, *bargain* and *sell*, shall amount to, and be construed and adjudged in all courts of judicature to be, express covenants to the bargainee or grantee, their heirs and assigns respectively, from the bargainor and grantor, for him and themselves respectively, their several and respective heirs, executors and administrators, that the bargainor and grantor respectively, notwithstanding any act done by him or them, was and respectively were,

were, at the time of the execution of such deed and deeds, seized of the hereditaments and premises thereby granted, bargained and sold, of an indefeazable estate of inheritance, in fee simple, free from all incumbrances, (rents, duties, conditions, and services due and reserved to the King only excepted) and for quiet enjoyment thereof against the grantor and bargainor, his and their heirs and assigns respectively, and all claiming under him or them, and also for further assurance thereof to be made by the grantor and bargainor, his and their heirs and assigns, and all claiming under him or them; unless the same shall be restrained and limited by express particular words contained in such deed or deeds; and that the bargainee and grantee, their and each of their heirs, executors, administrators and assigns respectively, shall and may, in any action or actions to be brought, assign a breach or breaches thereupon, as they might do in case such covenants were expressly inserted in such bargain and sale, deed and conveyance aforesaid.

Cap. IV

An ACT for PRESERVING the CHURCH of ENGLAND, as by law established in this province, and for securing LIBERTY of CONSCIENCE in matters of RELIGION.

I. *Be it enacted by the Governor, Council and Assembly,*

THAT no person whatsoever shall be capable to be admitted to any parsonage, or other ecclesiastical benefice or promotion whatsoever, within this province of *New-Brunswick*, before such time as he shall be ordained according to the form and manner by law established in the said Church of England.

Persons admitted to parsonages, &c. to be ordained.

II. *And be it further enacted,* That every person having any ecclesiastical benefice or promotion within this province (not having some lawful impediment, to be allowed and approved of by the Governor or Commander in Chief for the time being) shall once at the least in every month, upon some Lord's Day, in the church, chapel, or place of public worship, belonging to his said benefice or promotion, openly and solemnly read the public and common prayers and service prescribed in and by the liturgy of the said Church of England, and (if there be occasion) administer each of the sacraments, and other rites of the church, in such order, manner and form, as in and by the said liturgy is appointed, upon pain to forfeit the sum of five pounds to the use of

Persons having benefices, &c. to read prayers once in every month at least, administer sacraments, &c. under penalty of five pounds.

the

the poor of the parish for every offence, upon conviction by indictment or information in any of his Majesty's courts of record in this province.

Persons having benefices, &c. who shall use any other form of prayers, &c. than those prescribed in the liturgy shall be *ipso facto* disabled to officiate and be deprived of their benefice.

III. *And be it further enacted*, That if any person whatsoever, having any ecclesiastical benefice or promotion within this province, shall presume, in any church, chapel, or other place of public worship within this province, openly to use any other form or order of common prayers, administration of sacraments, rites or ceremonies, than what is prescribed and appointed to be used in and by the said liturgy; every such person so offending, and being thereof convicted, upon indictment or information, in the supreme court, or in any court of oyer and terminer or goal delivery in this province, shall be *ipso facto* disabled to officiate in the church, and deprived of all his ecclesiastical benefice or promotion, and it shall be thereupon lawful for the Governor, or Commander in Chief for the time being, to collate to the same, as if the person so offending as aforesaid were dead.

Dissenters shall have liberty of conscience, may build meeting-houses, and elect ministers.

IV. *Provided always, and be it further enacted*, That all dissenters from the Church of England, within this province, shall have liberty of conscience, and may erect and build meeting houses for public worship, and may choose and elect ministers for the decent and orderly celebration of divine service, and administration of the sacraments, according to their several and respective opinions.

No person not duly elected by dissenters, allowed to preach, &c. unless licensed by the Governor or Commander in Chief, nor shall any person be allowed to preach, &c. unless he shall take the oaths of fidelity, &c.

V. *Provided nevertheless, and be it further enacted*, That no person whatsoever, of what persuasion or denomination soever, unless so chosen and elected, shall be permitted, suffered or allowed, to preach any sermon or lecture, or to officiate in the celebration of divine service and administration of the sacraments, or other rites and ceremonies, in any place of public worship within this province, unless he be first approved and thereunto licensed by the Governor or Commander in Chief for the time being, under his hand and seal, and no person whatsoever of what persuasion or denomination soever, shall be permitted, suffered or allowed, to preach any sermon or lecture, or to officiate in the celebration of divine service and administration of the sacraments or other rites and ceremonies in any place of public worship unless he shall in the presence of the same Governor, or Commander in Chief, or of such person as he shall for that purpose nominate and appoint, take the usual oaths of fidelity and allegiance to his Majesty and his successors: And that every person offending herein against the true intent and meaning of this act, and being thereof convicted upon indictment or information in the supreme court, or in any court of oyer and terminer or goal delivery in this province, shall for each offence pay a fine to his Majesty, not exceeding the sum of one hundred pounds, nor less than fifty pounds, to be applied

Offenders to be fined not exceeding £100. nor less than £50. or imprisoned not exceeding six nor less than three months.

for the public uses of this province and the support of the government thereof, or suffer imprisonment for a space not exceeding six months nor less than three months, at the discretion of the court before which the said offender shall be so convicted. *Provided*, That no person whatsoever shall, at any time be liable to the penalties mentioned in this act, or any of them, for any offence or offences hereafter to be done or committed in any of the premises, unless he be thereof convicted as aforesaid, within six months respectively after such offence or offences shall have been committed: *And provided*, That the people called Quakers may be allowed the exercise of public worship in the manner they are accustomed, any thing in this act to the contrary notwithstanding.

Conviction must be within six months.

Quakers allowed to worship as accustomed.

to go to the meeting in their own way.

Cap: V

An ACT against the PROFANATION of the LORD'S DAY, commonly called SUNDAY, and for the SUPPRESSION of IMMORALITY.

TO prevent the true and sincere worship of GOD from being profaned, disturbed or neglected, by any of the inhabitants and sojourners within this province.

Be it enacted by the Governor, Council and Assembly, That from and after the publication of this act, all persons within this province, of what description soever, (native Indians excepted) who shall be convicted, by the oath of one or more credible witnesses or witnesses, before any of his Majesty's justices of the peace in any county within said province (who are hereby required to take cognizance of the same) of shooting, gaming, sporting, playing, hunting, or frequenting tippling-houses, or servile labor (works of necessity and mercy excepted) on the LORD'S DAY, commonly called SUNDAY, or who shall be convicted of drunkenness, or the disturbance of the public worship of GOD, either on that or any other day, shall for every such offence, forfeit and pay the sum of three shillings, to be levied by distress and sale of the offender's goods at public auction by warrant under the hand and seal of any justice of the peace (the overplus, if any, to be returned to the owner of such distrained goods) unless the said forfeiture be paid within three days after conviction; but for want of effects whereon to levy the forfeiture, such offender shall for every such offence, by warrant under hand and seal of such justice of the peace, be publickly set in the stocks, not more than three, nor less than the space of one hour. All for-

Shooting, gaming, &c. prohibited on the Lord's Day.

Drunkenness and disturbance of public worship on that or other days.

Penalty three shillings for each offence.

For want of effects offenders set in the stocks.

Forfeitures applied to relief of the poor.

Complaint within ten days.

feitures incurred by virtue of this act to be applied towards the relief of the poor of the city, township or parish where such offence shall have been committed. *Provided always*, that the complaint shall be within ten days after the commission of such offence.

Cap: VI

An ACT for regulating JURIES and declaring the QUALIFICATIONS of JURORS.

I. *Be it enacted by the Governor, Council and Assembly,*

Grand jurors to be possessed of a freehold of the yearly value of £10, or of a personal estate of £100.

And petit jurors of a freehold of 20s. a year, or of £10. personal estate.

THAT no person shall be qualified to serve as a grand juror unless such person shall be possessed of a freehold in the county where he resides, of the clear yearly value of ten pounds, or of a personal estate of the value of one hundred pounds. And that no person shall be qualified to serve as a petit juror, unless he hath a freehold estate of the value of twenty shillings a year, or is possessed of ten pounds in personal estate. And if any of a lesser estate be returned, it shall be good cause of challenge, and the party returned shall be discharged upon said challenge or upon his own oath.

No person to be returned unless summoned six days before the day of appearance.

Notice in writing left at the dwelling house.

II. *Be it further enacted,* That no sheriff or bailiff shall return any person to have been summoned unless such person shall have been duly summoned six days before the day of appearance, and in case any juror be absent from his habitation, notice of such summons shall be given by leaving a note in writing under the hand of such officer at the dwelling house of such juror, with some person there inhabiting.

Sheriff to summon twenty-four men for grand jurors and twenty-four other men for petit jurors.

III. *Be it further enacted,* That the sheriff in each county shall duly summon twenty-four men qualified as by this law is directed, to serve as grand jurors, and twenty-four other men also duly qualified to serve as petit jurors, to attend at the supreme court of this province, on their several terms and at the general sessions of the peace, and inferior courts of common-pleas in each county, at such times and places as are by ordinance or law appointed. Which grand and petit jury so returned, shall be the juries for hearing and determining all causes criminal, to be heard or tried at the said courts during the several terms aforesaid. And in all causes other than criminal causes, the names of each person so summoned, impanelled and returned, in either of the said courts, shall with his addition and place of abode be written in distinct pieces of parchment or paper of equal size, and shall be delivered to the clerk of each court to be rolled up and put into a box, and when a cause is brought to be tried some indifferent person

Manner of impanelling jurors in civil causes.

peace to be held half yearly in each county, shall be and continue the grand inquest of the county until another grand jury shall be sworn in at the ensuing general sessions of the peace in the said county.

Members of the Council and of the Assembly, &c. excused from serving as jurors.

VIII. *Provided always, and be it enacted*, That the members of his Majesty's council, the members of the assembly, the treasurer of the province, register of deeds, chief surveyor of the crown lands, secretary of the province, clerks of the council, and of the assembly, officers of his Majesty's customs and naval officer, attornies at law, officers of his Majesty's courts, physicians, and surgeons, shall be excused from serving as jurors.

Grand and petit jurors to be fined for non-appearance when called

IX. *And be it further enacted*, That every person or persons so summoned as aforesaid to serve as a grand juror, and who shall not appear after being openly called three times, upon oath made by the summoning officer that such person so making default had been lawfully summoned, shall forfeit and pay for every such default, such fine, (not exceeding the sum of three pounds, nor less than twenty shillings) as the judge or judges presiding in said court shall think reasonable to inflict or assess, unless some sufficient cause of his absence be proved by oath, affidavit or affirmation, to the satisfaction of the said judge or judges. And that every petit juror so summoned as aforesaid to attend at any court of record in this province, and making default on proof so as above set forth, of their being legally summoned, shall forfeit and pay for every such default, the sum of five shillings, unless some reasonable cause by proof as above directed, be assigned to the satisfaction of the judge or judges who sit to try the cause.

Amount of fines not to exceed £3.

Provided always, That the amount of the said fines to be levied on each jurymen for the several defaults at one term, shall not exceed the sum of three pounds.

CAP. VII

An ACT to empower the FOREMAN of the GRAND JURIES to administer the usual OATHS to such WITNESSES as are to be examined before them.

Preamble.

WHEREAS the sending such witnesses as are required to give evidence to the grand juries to be sworn by the court is attended with many inconveniences and delays, to prevent which,

Be it enacted by the Governor, Council and Assembly, that every person, who may hereafter be appointed foreman of a grand jury, shall from the time of his appointment till his discharge, be empowered, and is hereby authorized to administer the usual oaths to such witnesses as shall come to give evidence to the grand jury whereof he is foreman—and if any person being so sworn, shall give any false evidence, wilfully and corruptly, and be thereof lawfully convicted, every person so offending shall for every such offence, suffer such penalties, forfeitures and disabilities, as persons convicted of wilful and corrupt perjury are liable to.

Foreman of grand jury to administer oaths to witnesses.

Cap: VIII

A BILL entitled an ACT for enabling the JUSTICES of the SUPREME COURT to try all causes at *NISI PRIUS* and authorising ATTORNIES of the SUPREME COURT to practice in the inferior courts of COMMON PLEAS within this province.

Be it enacted by the Governor, Council and Assembly,

THAT the justices of the supreme court, or any of them, shall have full power and authority to hear and determine in the severall and respective circuit courts, which shall from time to time hereafter be for that purpose appointed in the province, all causes brought to issue in the supreme court, without a commission being expressly made for that purpose.

Justices of the supreme court to try causes in the circuit courts.

And be it further enacted, That all and every of the Attornies of the supreme court, may commence, prosecute, or defend any action or suit for his or their clients in any inferior court of common-pleas within the province.

Attornies of the supreme court may practice in inferior courts.

CAP. IX.

An ACT for limiting the VALUE of ACTIONS to be brought in the inferior court of COMMON PLEAS in this province and for restraining the removal of ACTIONS.

Preamble.

WHEREAS it is necessary that the administration of justice should not be delayed or rendered expensive by the contentious spirit of the parties, and that in all causes of small value it is reasonable just and proper, the costs of suit should in some measure be proportioned to the sum in contest.

No action to be commenced except in the clerks courts or the city court of *Saint John*, where the sum &c. does not exceed 4*l*.

Be it enacted by the Governor, Council and Assembly, that no person whatsoever, by him or herself, or by his or her counsel or attorney, shall commence any suit or action by bill, plaint, or in any other manner whatsoever, upon bond, obligation, or penal bill, or on any other matter or thing whatsoever, or shall pursue or prosecute any such bill, plaint, action or suit, where the sum or thing in demand, suit or controversy, does not exceed the sum of forty shillings in any court of law within this province, except the clerk's court of the respective counties, or the city court of the city of *Saint John*: Nor when the sum or thing in demand does not exceed ten pounds, in any courts of law within the province except the inferior courts of common pleas for the respective counties, or the mayor's court of the city of *Saint John*.

Nor in any court but the common pleas where the sum does not exceed £10.

Suits, &c. so commenced not to be removed.

And when any suit or action within the limits aforesaid is or shall be commenced, heard or determined, in such court as is by this act permitted and allowed, it shall not be lawful for any person or persons whatsoever, by him, her, or themselves, or by his, her, or their counsel or attorney, or by any ways or means whatsoever, to remove such suit or action so commenced, from the said respective courts, any law, usage or privilege, to the contrary notwithstanding.

CAP. X.

An ACT for REGULATING the COURTS of LAW establish'd in the several counties for the TRIAL of CAUSES to the value of FORTY SHILLINGS.

Preamble.

WHEREAS it is necessary for the effectual administration of justice in the clerk's courts of the respective counties, and

and in the city court of the city of *Saint John*, that further powers be given to the justices of the peace and aldermen presiding therein and that further regulations and restrictions be adopted the more fully to obtain the purposes for which they were instituted.

Be it enacted by the Governor, Council and Assembly, that the constables and marshal's appointed to summon the juries for trial of causes in said courts shall summon and return three impartial men in the stead of twelve jurors to each of the said respective courts on the stated monthly terms or days of trial, and no oftener in case the clerks of said courts shall respectively signify that the attendance of three such persons is then necessary, for the trials of causes at issue and not otherwise, which three persons so returned shall try all causes at issue in said courts respectively, in the room and stead of a jury consisting of twelve jurors as heretofore ordained.

Three impartial persons to be returned, if required in stead of twelve jurors.

And it shall nevertheless be in the election of the defendant whether the cause shall be heard and determined by the judge and clerk of the said court only or by three such persons, and the defendant shall on being served with a summons, notify the clerk of said court that he wishes three such persons to be summoned, and if such notice is not given none shall be returned.

Causes to be tried by the judge and clerk with or without three other persons at the election of defendant.

And be it further enacted, that the presiding justice and no other person shall have full power and authority to determine and limit the term of imprisonment or length of time the defendant shall suffer confinement, to be inserted in the execution against the body by the clerk, in case the defendant shall not fulfil the judgment given against him, the said term not to exceed three months as heretofore ordained.

Term of imprisonment limited by the presiding justice.

And be it further enacted, that the said courts shall be held in the most convenient place in each town before some one of the justices of the peace of the county, and the justice who is to preside at the said court shall be the only person to appoint the place where said court shall be held—and the several and respective judgements which shall be given in any of the said courts shall be valid and final between the parties notwithstanding any defect of form in the entries or pleadings made and had in the causes so determined.

Place of courts sitting appointed by presiding justice.

Judgment valid and final, want of form notwithstanding.

Provided always and be it further enacted, that nothing in this act shall be construed to give the clerk any authority to depute his judicial power to any person to act as deputy, but that in cases where a deputy shall be appointed the justice shall be the sole judge, any thing in any law or ordinance to the contrary in anywise notwithstanding.

Clerk not to depute his judicial power.

CAP. XI

A
 An ACT relating to Wills, Legacies, Executors and Administrators, and for the settlement and distribution of the Estates of Intestates.

I. *Be it enacted by the Governor, Council and Assembly,*

Devises, &c. to be in writing, and attested by three witnesses.

THAT all devises and bequests of any lands or tenements devisable by law, shall be in writing, and signed by the party so devising the same, or by some other person in his or her presence, and by his or her express direction, and shall be attested and subscribed in the presence of the devisor by three or more credible witnesses, or else they shall be utterly void and of none effect.

Not revoked but by other will or codicil in writing or by burning, &c.

II. *And be it enacted,* that no devise in writing, of any lands, tenements or hereditaments, nor any clause thereof, shall be revocable, otherwise than by some other will or codicil in writing, or other writing signed in the presence of three or more witnesses, declaring the same, or by burning, cancelling, tearing or obliterating the same by the testator himself, or in his presence, and by his direction and consent.

Nuncupative wills, how proved.

III. *And be it enacted,* that no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of thirty pounds, that is not proved by the oath of three witnesses (at the least) that were present at the making thereof, nor unless it be proved that the testator, at the time of pronouncing the same, did bid the persons present, or some of them bear witness that such was his will, or to that effect; nor unless such nuncupative will was made in the time of the last sickness of the deceased, and in the house of his or her habitation or dwelling, or where he or she hath been resident for the term of ten days or more next before the making of such will, except where such person was surpris'd or taken sick being from his or her own house, and died before he or she returned to the place of his or her dwelling.

Nuncupative wills committed to writing in six days.

IV. *And be it enacted,* That after six months past after the speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony, or the substance thereof, be committed to writing within six days after making the said will.

Probate of such wills not to pass the seal of any court, till 14 days. Widow or next of kindred called in.

V. *And be it enacted,* that no letters testamentary or probate of any nuncupative will shall pass the seal of any court 'till fourteen days at least, after the decease of the testator be fully expired, nor shall any nuncupative will be at any time received to be proved, unless process have first issued to call in the Widow, or next of kindred to the deceased, to the end they may contest the same.

VI. *And be it enacted*, That no will in writing concerning any personal estate shall be repealed, nor shall any clause, devise or bequest therein, be altered or changed by words or will, by word of mouth only, except the same be, in the life of the testator, committed to writing, and after the writing thereof, read unto the testator and allowed by him, and proved to be so done by three witnesses at the least. *Provided nevertheless*, that any soldier, being in actual military service, or any mariner or seaman, being at sea, may dispose of his moveables, wages, and personal estate, as he or they might have done before the making of this act, and that nothing in this act shall alter the jurisdiction or right of probate of wills concerning personal estates vested in the governor or commander in chief for the time being, who shall retain the same right and power as they had before in every respect, subject nevertheless to the rules and directions of this act.

Repeal &c. of wills concerning personal estate, committed to writing,

This act not to extend to soldiers or seamen.

Jurisdiction of Governor or Commander in Chief not altered

VII. *And be it enacted*, That if any executor or executors of the will of any person deceased, knowing of their being so named and appointed, shall not within the term of thirty days next after the decease of the testator, cause such will to be proved and recorded in the register's office of the same county where the deceased person last dwelt, or present the said will and declare his or their refusal of the executorship: every executor so neglecting his or her trust and duty in that behalf (without just excuse made for such delay) shall forfeit unto his Majesty the sum of five pounds every month, from and after the expiration of the said thirty days, until he or they shall cause probate of such will to be made or present the same as aforesaid: every such forfeiture to be had and recovered by action of debt in the inferior court of common pleas, in the same county, at the suit of any of the heirs, legatees, or creditors, or in the supreme court by information of his Majesty's attorney-general, for the public uses of the province and the support of the government thereof.

Executors to prove and register wills under penalty of £5 for every month neglect.

VIII. *And be it enacted*, That if any person or persons shall be found guilty of suppressing any last will and testament, such person or persons shall be subject and liable to the same penalty as by this act is prescribed for persons neglecting to prove any last will and testament.

Like penalty for suppressing wills.

IX. *And be it enacted*, That where any certain legacy is or shall be bequeathed, and given by any person in his or her last will and testament, as also where any residuary or uncertain legacy is or shall, by the account of any executor, be reduced to a certainty, every such legacy and legacies as aforesaid, may be sued for and recovered at common law, any law, custom or usage to the contrary notwithstanding.

Legacies to be sued for at common law.

X. *And be it enacted*, That henceforth every executor named in any will, taking upon him that charge, by proving such will within

Executors to exhibit an inventory.

within the space of three months next after probate thereof, (or at such further and longer time, as the judge of probate shall see meet to allow the circumstances of any estate requiring the same, shall exhibit into the register's office aforesaid, upon oath, a full and true inventory of the whole estate of the deceased, so far as is then come to his hands and knowledge; and shall add thereto what and so much as may further afterwards appear, on pain of forfeiting five pounds for every months neglect thereof, afterward as is by law provided for not presenting a will, and to be recovered in like manner.

Executors being residuary legatees, &c. may sue co-executors, &c.

XI. And any executor being a residuary legatee, may bring his action of account against his co-executor or executors, of the estate of the testator, in their hands, and may also sue for and recover his equal and rateable part thereof. And any other legatee or residuary legatee shall have like remedy against the executors.

Heir at law to have two shares of intestate real estate.

XII. *And be it enacted*, that when and so often as it shall happen that any person dies intestate, the heir at law of such intestate shall be entitled to and receive a double portion or two shares of the real estate left by such intestate, (saving to the widow her right of dower) and the remainder of such estate shall be divided equally to and amongst the other children, or their legal representatives including in the said distribution children of the half blood, and in case there be no children, to the next of kindred in equal degree and their representatives.—Provided that children advanced by settlement or portions not equal to the other shares, shall have so much of the surplusage as shall make the estate of all to be equal, except the heir at law who shall have two shares or a double portion of the whole.

Portions advanced to be deducted.

Persons by law entitled to administer neglecting to do so for 30 days, administration to be given to creditors or others.

XIII. *And be it enacted*, That upon due application within thirty days after the death of any intestate the said judge of probate shall grant letters of administration as is by law directed; and in case the persons so by law entitled shall neglect to apply within the said thirty days, after first citing such person or persons, and their refusal to accept the same, such judge of probate shall grant administration to one or more of the principal creditors or to such person or persons as he shall judge fit; and he shall in all cases take sufficient bonds with two able sureties, respect being had to the value of the estate; and shall and may proceed to call such administrators to account for and touching the goods of the intestate: and upon due hearing and consideration thereof, the said judge shall and hereby is fully empowered to order and make just and equal distribution of what remaineth clear (after all debts, funeral and just expences of every sort first deducted) amongst the wife and children, or childrens children, if any such there be, or otherwise to the next of kindred to the dead person in equal degree,

Debts and funeral expences deducted before distribution.

degree, or legally representing their stocks *pro suo cuique jure*, according to the laws in such cases, and the rules and limitation hereafter set down; and the same distributions to decree and settle, and to compel such administrators to observe and pay the same by the due course of law, saving to every one his right of appeal.

XIV. *Provided always, and be it enacted*, That the judge of probates and every other person who by this act is enabled to make distribution of the surplusage of the personal estate of any person dying intestate, shall distribute the whole surplusage of such estate or estates in manner and form following; that is to say, one third part of the said surplusage to the wife of the intestate, and all the residue by equal portions, to and amongst the children of such persons dying intestate, and such persons as legally represent such children, in case any of the said children be then dead, other than such child or children (not being heir at law) who shall have any estate by the settlement of the intestate, or shall be advanced by the intestate in his life time, by portion or portions equal to the share, which shall by such distribution be allotted to the other children to whom such distribution is to be made: And in case any child, other than the heir at law, who shall have any estate by settlement from the said intestate, or shall be advanced by the said intestate in his life time, by portion not equal to the share which will be due to the other children by such distribution as aforesaid; then so much of the surplusage of the estate of such intestate, to be distributed to such child or children as shall have any land by settlement from the intestate, or were advanced in the life time of the intestate, as shall make the estate of all the said children to be equal as near as can be estimated: But the heir at law, notwithstanding any land that he shall have by descent or otherwise from the intestate, is to have an equal part in the distribution with the rest of the children, without any consideration of the value of the land which he hath by descent or otherwise from the intestate. And in case there be no children nor any legal representatives of them, then one moiety of the said estate to be allotted to the wife of the intestate; the residue of the said estate to be distributed equally to every of the next of kindred of the intestate, who are in equal degree, and those who legally represent them. *Provided*, That there be no representations admitted among collaterals after brothers and sisters children: and in case there be no wife, then all the said estate to be distributed equally to and amongst the children: and in case there be no child, then the next of kindred in equal degree of or unto the intestate, and their legal representatives as aforesaid, and in no other manner whatsoever. *Provided*, that if after the death of the father any of his

Distribution of personal estate of persons dying intestate.

children shall die intestate without wife or children, in the life time of the mother, every brother and sister and their representatives shall have equal share with her.

No distribution of goods of persons dying intestate 'till after one year unless by order of judge of probate and then bond to be given to refund in case of debts afterwards found due and costs of suit, if any.

Provided also, and be it likewise enacted, To the end that a due regard be had to creditors, that no such distribution of the goods of any person dying intestate be made till after one year be fully expired after the intestate's death, except by special order of the judge of probate, and that such and every one to whom any distribution and share shall be allotted, shall give bond with sufficient sureties in the said courts, that if any debt or debts truly owing by the intestate shall be afterwards sued for and recover'd, or otherwise duly made to appear; that then and in every such case he or she shall respectively refund and pay back to the administrator his or her rateable part of that debt or debts, and of the costs of suit and charges of the administrator by reason of such debt, out of the part and share so as aforesaid allotted to him or her, thereby to enable the said administrator to pay and satisfy the said debt or debts so discover'd after the distribution made as aforesaid.

Administration *cum testamento annexo* in all cases as heretofore.

Provided always, That in all cases where the judge of probates has used heretofore to grant administration *cum testamento annexo*, he shall continue so to do, and the will of the deceased in such testament expressed shall be performed and observed in such manner as it should have been if this act had never been made.

This act not to extend to *feme covert*.

Provided, That nothing in this act contained, shall be construed to extend to the estates of *feme covert*s who shall die intestate, but that their husbands may demand and have administration of their rights, credits and other personal estates and recover and enjoy the same as they might have done heretofore.

Personal assets deficient for the payment of debts &c. real estate may be sold by licence from the Governor and Council.

And be it further enacted, That in case that personal assets shall be deficient for the payment of any debts or legacies, and it shall be found necessary for an executor or administrator to make sale of any part of the real estate of the deceased, for the payment of any debts or legacies, such executor or administrator shall apply to the governor or commander in chief for the time being, and his Majesty's council of this province, who are hereby authorized and empower'd to take cognizance thereof, and to grant a licence for the sale of such part of such real estate, as may be most convenient for the payment of such debts or legacies, and before any sale be made of any real estate, the executor or administrator, shall give thirty days public notice, by posting up notifications in the most public places in the town where the deceased person last dwelt, and in the public prints, if any such there be, and whoever will give most shall have the preference in such sale. And in case the estate of such intestate shall be insolvent, the executor or administrator shall make like application to the governor or commander in chief for the time being, and his Majesty's council,

council for an inquiry, and for the appointment of commissioners to enquire into such insolvency, and to examine and settle the claims of all creditors, and the amount of the estate of such insolvent, and to authorize such executor or administrator to sell all the lands and tenements of such insolvent, and to divide the produce of the whole of such estate, in due proportion to and among the creditors.

And be it further enacted, That every executor or administrator, who may be authorized and empowered to make sale of any real estate, shall, before such sale made give bond by himself, or his lawful Attorney with two sureties, at the office of the register of the court of probates, in the county where such real estate shall lie, for the just and legal distribution of the monies arising from such sale, in the full value which, by the report of the commissioners for that purpose appointed, shall be certified to be necessary to be raised by such sale.

Executors, &c.
to give bond before the sale of real estate.

Cap: XII.

An ACT subjecting REAL estates in the Province of NEW-BRUNSWICK to the payment of DEBTS, and directing the SHERIFF in his proceedings thereon.

WHEREAS it is highly reasonable and just that the real estate of every person or persons in this province should be subject to the payment of his, her or their debts due to all and every of his, her or their creditors, wheresoever resident.

Preamble.

Be it enacted by the Governor, Council and Assembly, That from and after the publication hereof, the houses, lands, real estate and hereditaments, situate or being in any part of this province, belonging to any person or persons whatsoever, indebted shall be liable to, and chargeable with all just debts and demands, of what nature or kind soever, owing by or due from any such person to his Majesty, or any of his subjects, and shall be and are hereby made chattels for the satisfaction thereof in like manner as personal estates within this province are seized, sold or disposed of, for satisfaction of debts.

Lands, &c. liable to be seized &c. for debts.

Provided always, That every sheriff, or other officer, to whom any writ of *ferri facias*, or other writ, shall be directed, shall first seize and take so much of the personal estate of the defendant or defendants as may be sufficient to satisfy the sum justly

Sheriffs or other officers to seize and sell houses, lands, &c. on *ferri facias* or other writ where

personal estate
cannot be found.

due to the plaintiff, with cost of suit, which shall be indorsed on the said execution before the sealing thereof, if so much within his bailiwick he can find, and if so much he cannot so find, then, and in that case the sheriff, or other officer shall seize, sell and dispose of so much and no more, as near as may be of the houses, lands, real estate and hereditaments of the defendant or defendants as will be sufficient to satisfy the whole, or the residue, as the case may require, of the monies so as aforesaid from him or them due, and on such writs payable.

Houses, lands
&c. to be advertised
six months
before sale.

And be it further enacted, That before any sale shall be made by any sheriff, or other officer of the houses, lands, real estate or hereditaments of any person or persons, he shall first advertise the time and place of such intended sale at least six months before he shall make the same, in the city, town or parish where the premises are or shall be, in three or more of the most public places of the county wherein such estate doth lay, and then and there between the hours of twelve and five in the afternoon shall sell the same to the highest bidder.

Sale to be between the hours
of 12 and 5, P.
M.

Owners of houses,
lands, &c. to have their
election which
part to be sold.

And be it further enacted, That every defendant and defendants whose houses, lands, real estate or hereditaments shall or may hereafter be taken into execution, shall and may have free election by himself, his attorney, his heirs or executors, at any time *twenty* days before sale thereof is as aforesaid to be made and signify in writing to the officer who is to make the same sale what part or portion of the same houses, lands real estate or hereditaments shall be sold, if a part or dividend thereof may be sufficient to satisfy the monies on such execution due and payable as aforesaid; which part, if that shall be sufficient and no other, the sheriff or other officer shall on such writ of execution sell or dispose of.

Sheriff or other
officer to make
conveyance of
houses, lands &c.
sold on execution.

And be it further enacted, That when any houses, lands, real estate or hereditaments shall be sold in manner aforesaid, the sheriff or other officer that sold the same, shall in his own name make unto the purchaser thereof, as good and sufficient a conveyance for the houses, land, real estate or hereditaments purchased as aforesaid, as the owner of such houses, land, real estate or hereditaments might or could have thereof made at or before the time of the judgment therein reciting the execution or executions, or other process requiring such sale to be made, by virtue whereof the premises were sold as aforesaid, by which deed the purchaser or purchasers shall be and are hereby declared to be vested in as good and perfect an estate as the owner of such houses, lands, real estate or hereditaments was seized of or entitled unto, at or before the said judgment; and as fully to all intents and purposes, as if the person against whom such writ of execution

on shall be granted had sold such lands and premises to such purchaser or purchasers, and signed, sealed and delivered a good deed for the same, and received the consideration money himself.

And be it further enacted, That the purchaser his heirs and assigns shall hold the premises purchased as aforesaid, free and clear of all other judgments, recognizances, statutes merchant and statutes staple whatsoever, by virtue whereof no execution has been executed upon the real estate so purchased, any law, usage or custom to the contrary notwithstanding.

Purchaser shall hold the premises free of judgments, &c.

And be it enacted, That no process against real estates shall issue until one of the Judges of the supreme court shall have inspected the record of the judgment, and thereon certified that he has inspected the same, and no error is therein apparent to him; and in like manner one of the said Judges shall inspect the process to be issued, and certify thereon as aforesaid; and the said judgment and process, with such certificates, shall be recorded in a book by the clerk of the supreme court to be kept for that purpose, before sending such process to any sheriff or other officer or officers.

Judge to certify &c. before process against real estate shall issue.

Judgment and certificate recorded by clerk of supreme court.

And be it enacted, That if any judgment or process by virtue of which such sale shall be made as aforesaid, and certified and recorded as aforesaid, shall happen to be reversed for error, yet the same reversal shall not be given in evidence, or be of force against any *bona fide* purchaser under the said judgment or process so certified and recorded as aforesaid: but the purchaser his heirs, executors, administrators or assigns, shall hold the land or other thing so *bona fide* purchased, notwithstanding a reversal of the judgment or process after his purchase, and such reversal shall only operate against the plaintiff, his heirs executors and administrators to compel him or them to restore in value to the defendant for what he lost.

Reversal of judgment not to operate against bona fide purchaser; but plaintiff shall restore in value to defendant.

And be it enacted, That the record made in the said book as aforesaid, of the judgment, process and certificates, shall be as good evidence of either of them at all times as if the originals were produced.

Record in clerk's book good evidence.

And in the case where fundry executions or other processes have issued, requiring the sale of real estate and sufficient cannot be levied of the personal and real estate, to satisfy all the sums commanded to be levied. *Be it enacted,* That such priority and preference as the law gives in the case of executions against personal estate only shall be given in the case aforesaid, and all disputes on that head shall thereby be regulated, adjudged and determined.

The same priority on executions against real as personal estates.

And

Damages and double costs of suit against sheriff or other officer for neglect of duty.

And be it enacted, That if any sheriff or other officer, shall, in any matter or thing, act or do contrary to his duty hereby required and directed, or contrary to the liberty and election hereby given to the defendant, or shall refuse to return the overplus money arising from such sale, if any shall remain in his hands, such defendant or person injured thereby, shall and may maintain his, her or their action on the case, against such sheriff or other officer in any court of record within this province, which shall or may have cognizance of the same, wherein he, she or they shall recover the damage by him, her or them sustained, with double costs of suit.

CAP. XIII

An ACT for RELIEF against ABSCONDING DEBTORS.

Be it enacted by the Governor, Council and Assembly,

Debtors absconding, creditors may make oath before the judges of the supreme court.

THAT from and after the passing of this act, whensoever it shall happen, that any person or persons whatsoever, being indebted within this province, shall either secretly depart the province, or keep concealed within the same, any one creditor or joint company whose debt or demand is due to them jointly to whom such absconding or concealed person or persons is or are indebted in the sum of *Twenty Pounds* or upwards, or any *Two* to whom he, she or they is or are indebted in the sum of *Thirty Pounds* or upwards or any *Three* to whom he, she or they is or are indebted in the sum of *Forty Pounds* or upwards over and above all discounts may make application to the judges of the supreme court of this province for the time being or any of them and there make affidavit or affirmation in writing in cases where by law an affirmation is allowed, that the said absconding or concealed person or persons is or are indebted to him, her or them in the sum of _____ over and above all discounts, and that he, she or they do verily believe that the said absconding or concealed person or persons is or are either departed the province or concealed within it with intent and design to defraud him, her or them and other creditors (if any such there be) of their just dues or to avoid being arrested by the ordinary process of law which departure or concealment shall also be proved to the satisfaction of such judge or judges by *Two* witnesses: And on such affidavit or affirmation and such other proof made the said judge or judges or any one of them hereby is and are fully empowered authorized and required forthwith to issue his or their warrant or warrants to the sheriff of the city or county which contains the last usual place of residence of such absconding or concealed

Warrant for the attachment of the estate of such debtors.

cealed person or persons, or to the sheriff or sheriffs of any or every other city or county within this province commanding such sheriff or sheriffs respectively to attach, seize, take and safely keep all the estate as well real as personal of the said absconding or concealed person or persons of what kind or nature soever, and every or any part or parcel thereof in whatever part of his bailiwick they can be found with all evidences, books of account, vouchers and papers relating thereto, which warrant or warrants the sheriff or sheriffs respectively to whom the same shall be directed and delivered, are hereby enjoyn'd, required, authorised and commanded well and truly to execute, and with the assistance of two substantial freeholders forthwith to make a just and true inventory of all such estate and effects as he shall seize and take by virtue thereof, and to return the same signed by himself and the said two freeholders to such judge or judges who issued the warrant or warrants for taking and seizing thereof.

II. *And be it further enacted,* That such judge or judges who shall issue such warrant or warrants, shall immediately thereafter order notice to be given in the *Royal Gazette*, publish'd by the *Kings Printer* in this province, that on application to him or them made by a creditor or creditors as the case may be of such absconding or concealed person or persons, he has directed all his, her or their estates real and personal within this province to be seized and that unless he, she or they, by name so absconding or concealed return and discharge his, her or their debt or debts within three months after such public notice given, all his, her or their estates real and personal will be sold for the payment and satisfaction of his, her or their creditors.

Public notice of such attachment to be given, and that the estate will be sold if the debtor does not return and pay his debts within three months.

III. *And be further enacted,* That in case any sheriff or sheriffs shall by virtue of any warrant or warrants to be issued in pursuance of this act, seize and take any perishable goods or chattels it shall and may be lawful for the judge or judges who issued such warrant or warrants at his or their discretion to order the sale of such things perishable, and the monies arising thereby to be delivered and paid to the trustees that shall be appointed to manage the estate and effects of such absconding or concealed person or persons mentioned in such warrant or warrants, to be by such trustees applied according to the directions and intention of this act.

Perishable goods to be attached and sold immediately.

IV. *And be it further enacted,* That if any sheriff or sheriffs shall by virtue of any warrant or warrants to be issued in pursuance of this act, thro' ignorance or want of proper information seize and take any goods, chattles or effects which shall or may be claimed or challenged by any person or persons as his or their property, it shall and may be lawful for such sheriff thereupon to summon and swear a jury to inquire into and try the right and

When goods seized are claimed by other persons the right of property to be tried by a jury.

property thereof; and if such jury shall upon such inquest find the right and property of such goods, chattels or effects to be in the person or persons so claiming the same, or in any other than the person or persons against whose effects or estate such warrant or warrants did issue such sheriff shall forthwith after such inquisition had and taken deliver such goods, chattels and effects to the person or persons in whom the property thereof shall be so found, or to his, her or their agent, attorney or assigns, and such sheriff shall not be liable to any suit or prosecution for his having seized and taken such goods, chattels or effects so seized and taken thro' ignorance or for want of proper information and all reasonable charges arising by the sale of such perishable goods or by such inquest as aforesaid, shall be allowed and certified by the judge or judges who issued such warrant and paid out of the effects or estate of the absconding or concealed person or persons against whose estate and effects such warrant issued if the property of such goods, chattels or effects so claimed shall by such inquisition be found to be in any other than the person or persons against whose estate or effects such warrant issued; but if the property of the goods chattles or effects so claimed shall by such inquisition be found to be in the person or persons against whose estate or effects the warrant of attachment which caused them to be seized did issue then all costs charges and expences accrued or arising by such claim and inquisition or either of them shall be paid and born by the person or persons who claimed the same from the sheriff or applied for inquisition to be had or occasioned the same to be had and taken.

After such public notice payment of monies or delivery of effects to the absconding debtor to be deemed fraudulent.

V. *And be it further enacted*, That if any person or persons indebted to any such absconding or concealed person or persons or having the custody or possession of any effects or other thing or things whatsoever of any such absconding or concealed person or persons shall after such first public notice as aforesaid given, pay any debt or demand or deliver any such effects or other thing or things whatsoever to any such absconding or concealed person or persons or his, her or their attorney, agents, factors or assigns the person or persons so paying any such debt or demand or delivering such effects or other thing or things whatsoever shall be deemed to have paid the same fraudulently and is and are hereby made liable to answer the same or the amount or value thereof to such trustees or the survivor of them as shall by virtue of this act be appointed to receive and distribute the estate and effects of such absconding or concealed person or persons, towards the payment and satisfaction of his, her or their creditors. And if any person or persons indebted to, or having the custody or possession of any effects or other thing or things whatsoever of any absconding or concealed debtor or debtors shall after such public notice as aforesaid given, be sued by him or them or by
his

his, her or their order, attorney or procurement for any such debt or debts, duty, demand, effects or thing, he, she or they so sued may plead the general issue and give this act and the special matter in evidence.

VI. *And be it further enacted,* That all sales and conveyances of his, her or their estates, lands, goods and chattels, to him, her or them belonging, made by any such absconding or concealed person or persons after such public notice as aforesaid given, and all powers of attorney by him, her or them for selling any estate or effects or collecting any debts or demands whether made after or before such first public notice as aforesaid given, shall be null and void to all intents, constructions and purposes whatsoever as to all acts done or to be done after such first public notice given, any law usage or custom to the contrary notwithstanding.

All sales &c. by the absconding debtor after such notice to be void.

VII. *And be it further enacted,* That if any person or persons against whose estate or effects such warrant or warrants of attachment as aforesaid shall have issued, shall at any time before the appointment of trustees for all the creditors of such debtor be made, either by himself or by his attorney or agent by petition to the judge or judges who issued such warrant offer to prove to the court of which he or they is or are judge or judges in open court, that he, she or they against whose estate or effects such warrant or warrants issued is or are resident within this province and were not at the time such warrant issued nor within thirty days preceding, nor at any time after and is or are not then absconding or concealed, and thereby pray that the same may be heard and determined at the then next sitting of such court, and shall and do at the same time execute and deliver to the creditor or creditors who applied for and obtain'd such warrant or warrants of attachment a bond with good and sufficient security to be approved of by the said judge or judges; if in the supreme court in the sum of forty pounds if in any of the inferior courts in the sum of twenty pounds binding the obligors jointly and severally with a condition that if such person or persons by name against whose estate or effects such warrant or warrants issued, do not prove to the said court at the then next court that he, she or they is or are resident in this province and were not at the time such warrant or warrants issued nor within thirty days preceding the issuing thereof nor at any time after and is or are not then absconding or concealed, then such bond or obligation to be void, otherwise to remain in full force and virtue; then and in every such case the judge or judges who issued such warrant or warrants shall report his or their proceedings in the premises to the next court whereof he or they is or are judge or judges which court is hereby fully authorized and empowered to compel the parties and their witnesses to come into court and

When the debtor shall prove that he is a resident and did not abscond or lie concealed when such warrant issued, or within 30 days preceding; the court is to grant a supersedeas of the warrant and allow costs against the creditors who procured the warrant.

hear

hear the proofs and allegations of the parties and their witnesses in a summary way, and thereupon to determine whether the matter and things in such petition have been fully proved and supported, and if such court shall adjudge and determine that the matters and things contained in such petition have been fully and satisfactorily proved and supported then such court shall grant a *superfedeas* to such warrant or warrants and the person or persons against whose estate or effects such warrant or warrants did issue shall recover his, her or their costs (to be taxed by the said court, in open court) of the creditor or creditors who procured such warrant or warrants of attachment to be issued: but if the said court shall adjudge and determine that the matters and things in such petition mentioned have not been fully and satisfactorily proved and supported to the said court, then the person or persons to whom such bond as aforesaid shall have been given his, her or their executors or administrators shall recover the penalty or sum of such bond together with costs of suit, by action of debt, bill, plaint or otherwise, in any court of record within this province, the one moiety of such penalty or sum to the use of the obligee or obligees, his, her or their executors, administrators or assigns, and the other moiety thereof when recovered and received, to be paid to such trustees or the survivor of them, as shall be appointed to manage and distribute the estate and effects for seizing whereof such warrant or warrants issued, to be by such trustees or the survivor of them, disposed of and distributed in like manner as all other monies that may come to their hands by virtue of their appointment as trustees is directed to be disposed of by virtue of this act.

If the person absconding return not within three months, the judges to appoint trustees for all the creditors.

VIII. *And be it further enacted*, That if such absconding or concealed person or persons do not return within three months next after such public notice as aforesaid given and discharge his, her or their debt or debts or otherwise compound with or satisfy his, her or their creditors not having presented such petition and given such bond as aforesaid, or if such absconding or concealed person or persons shall have presented such petition and the court shall have adjudged and determined that the matters and things in such petition mentioned have not been fully and satisfactorily supported and proved or shall have refused to grant a *superfedeas* to such warrant or warrants, that then and in either such case, it shall and may be lawful for the judge or judges who issued the warrant of attachment or the judges of the same court for the time being, or any one of them, and either of them is hereby fully authorized and empowered to nominate and appoint three or more fit persons to be trustees for all the creditors of such absconding or concealed person or persons, which trustees shall take an oath or affirmation (in cases where by law an affirmation is allowed) well and truly to execute the trust by that appointment

Oath or affirmation of trustees.

reposed

reposed in them according to the best of their skill and understanding, which oath or affirmation the judge or judges appointing the said trustees is and are hereby required to administer.

IX. *And be it further enacted,* That the said trustees or any two of them, when so as aforesaid appointed, shall as soon as may be thereafter cause public notice to be given in the *Royal Gazette* publish'd by the *Kings Printer* in this province, of such their appointment, and thereby require all persons indebted to such absconding or concealed person or persons by a day certain to be appointed by them in their said notice, to pay all such sum or sums of money or other debt, duty or thing which they owe to the said absconding or concealed person or persons, and deliver all other effects of such absconding or concealed person or persons, which he, she or they may have in their hands, power or custody, to them the said trustees; and that the said trustees, shall also by public advertisement in the said news-paper, desire all the creditors of such absconding or concealed person or persons, by a certain time in such advertisement to be mentioned, to deliver to the said trustees, or any one or more of them, their respective accounts and demands against such absconding or concealed debtor or debtors.

Trustees to notify their appointment and to require payment of debts, &c.

Creditors to deliver their accounts &c. to the trustees.

X. *And be it further enacted,* That such trustees and each and every of them, when so nominated and appointed under the hand and seal, or hands and seals of the said judges or any one of them, hereby is and are fully authorized and empowered, to take into their hands all the estate or estates of such absconding or concealed person or persons for the management of whose estate or effects they were appointed, and every part or parcel thereof that shall have been seized as aforesaid, and all other his, her or their estate and effects, which they the said trustees may afterwards discover in any part of this province, and all evidences, books of account, vouchers and papers relating thereto; and such trustees immediately from their appointment shall be and hereby are declared to be vested with all the estate real and personal of such absconding or concealed person or persons for the management of whose estate they were appointed, and they and the survivors and survivor of them, is and hereby are enabled and made capable to sue for, recover and receive all such estate and estates, as well real as personal, debts, dues, effects or other thing or things whatsoever, which they shall find due, payable or belonging to such absconding or concealed person or persons; and such sheriff, or sheriffs as shall have seized, attached or taken any estate or estates real or personal or any other matter or thing whatsoever, by virtue of any such warrant or warrants as aforesaid, shall deliver the same to such trustees or one of them; and such trustees and the survivor and survivors of them is and are hereby authorized

Trustees to take the estate &c. of the absconding party into their hands, with power to sue for the same.

After 14 days notice to make sale of the same at public auction

Deeds &c. executed by trustees declared valid against the absconding party and all claiming under him.

fed and directed to make sale by public vendue of all such estates and effects of such absconding or concealed person or persons as shall come to their hands (after fourteen days notice of each time and place of sale respectively) and of all estate and interest which such absconding or concealed person or persons had in the same, and deed, releases, bills of sale or other conveyances for the same or any part or parts thereof, from time to time to make and execute, which being so made and executed, by them or any two of them, or the survivor of them, for such estates or effects or any part or parts thereof, shall be and are hereby declared to be as good, valid and effectual to transfer the property thereof to all intents, constructions and purposes whatsoever, as if executed by the said absconding or secreted person or persons before such first public notice as aforesaid given, and shall be good, valid and effectual in law, to all intents and purposes whatsoever, against the said absconding or concealed person or persons, his, her or their heirs, executors, administrators and assigns, and all persons claiming under them or any of them, by virtue of any act, deed, matter or thing, after such first public notice as aforesaid given.

Persons concealing effects or debts to forfeit double the value or sum due.

XI. *And be it further enacted*, That if any person or persons indebted to such absconding or concealed debtor or debtors, or having the custody of any goods, chattels or effects, or other thing or things whatsoever of such absconding or concealed person or persons, shall conceal the same and not deliver a just account thereof to such trustees as aforesaid, or one of them, by the day, for that purpose by them appointed, he, she or they, so concealing, shall forfeit double the sum of the debt or debts, or double the value of the goods, chattels, effects or other thing or things so concealed, to be recovered by the said trustees in any court within this province having jurisdiction to the amount of such forfeiture, and applied as herein after is directed which said courts are hereby respectively fully empowered to compel to come before them, all such concealers or others concerned, and them to examine upon oath, touching the premises and to commit them or either of them if they refuse to be so examined, or being so examined, refusing to answer fully and satisfactorily to such court.

False swearing to be deemed wilful perjury.

XII. *And be it further enacted*, That in case any person so to be examined as aforesaid, shall wilfully and knowingly swear or affirm falsely, the person so offending, shall be liable to all the same pains and penalties as those who are convicted of wilful and corrupt perjury.

Persons discovering secreted effects, entitled to 10 per cent. on the value thereof

XIII. *And be it further enacted*, That any person or persons (other than those who have the effects in their custody) who shall discover any effects of any absconding or concealed debtor or debtors, secreted contrary to the true intent and meaning of this

this act, so that they be recovered by the trustees of such absconding or concealed person or persons estate shall be and hereby is or are intitled to ten *per cent* on the value of all effects so discovered, recovered and received by the said trustees, to be paid to the discoverer or discoverers by the said trustees out of the estate or effects of such absconding or concealed person or persons.

XIV. *And be it further enacted*, That the trustees of any absconding or concealed debtors estate, hereafter to be appointed in pursuance of this act, or any two of them, are hereby fully impowered to settle and adjust all matters, contracts and accounts that may be subsisting between such absconding or concealed person or persons and his, her or their debtor or debtors and also between such absconding or concealed person or persons and his, her or there creditor or creditors, and to examine any person or persons upon oath, concerning any matters, accounts or settlements between them or either of them, which oath the said trustees or any one of them, two of them being present, is and are hereby impowered to administer.

Trustees impowered to settle all accounts &c. and to examine any persons upon oath.

XV. *And for the greater ease and relief of such trustees aforesaid, Be it enacted*, That in case any controversy shall arise concerning any debt, matter or thing claimed by any creditor or creditors of such absconding or concealed person or persons, or concerning any debt, due, duty matter or thing claimed by the said trustees from or against any person or persons, as belonging to or in right of the effects or estate of such absconding or concealed debtor or debtors, or concerning or relating to any contract or agreement entered into or made by such absconding or concealed debtor or debtors previous to such public notice as aforesaid first given, it shall and may be lawful for such trustees or any two of them, or the survivors or survivor of them, to have every such controversy determined in the following manner, that is to say, the said trustees or any two of them, or the survivors or survivor of them, may nominate two referees not being creditors of such absconding or concealed debtor or debtors, or to them known to be otherwise interested in such controversy, or related to any person interested in such controversy and the other party or parties in such controversy shall also nominate two indifferent persons to be referees, and their names shall be seperately written upon four pieces of paper as nearly as may be of the same size and figure, which shall be rolled up seperately in the same manner, and put into a box and from thence one of the trustees shall draw out three of the said pieces of paper, and the persons whose names are so drawn shall finally settle such controversy, and if any referees so appointed shall refuse or be incapable of acting in a reasonable time, a new choice shall be made in the manner as before, of another or others in the room of him

Trustees impowered to settle controversies by referees.

Made of appointing referees.

or them so refusing or being incapable of acting as aforesaid; and in case any person or persons who shall have any controversy with any such trustees as aforesaid, shall refuse to nominate fit persons to be referees on his or their part, then such trustees or any two of them or the survivors or survivor of them are hereby impowered to nominate referees for him or them so refusing, and to proceed to the final settlement of such controversy in manner aforesaid.

Duty of trustees.

XVI. *And be it further enacted*, That all trustees hereafter to be appointed by virtue of this act, shall proceed to convert the estate or estates real and personal of such absconding or concealed debtor or debtors, for the management of which estates respectively they shall be appointed, into money and collect the debts, due to the same, and that the said trustees or any two of them, or the survivors or survivor of them, shall cause public notice to be given in the public news paper before mentioned, requesting a general meeting of all such creditors as shall chuse to attend, to examine and see the debts due to each person ascertained at a certain time and place by such trustees in their said notice to be appointed, which shall not be less than two nor more than three months after such notice given, nor more than one year and a half from the time of their first appointment, at which meeting or at other subsequent meetings to be continued by adjournment if necessary, when all accounts are fairly stated and adjusted, they shall proceed to make a distribution or division among the creditors in proportion to their respective just demands, of all such monies as shall have come to their hands as trustees of such estate or effects (of which all forfeitures by them recovered and received by virtue of this act, shall be considered as a part) first deducting thereout all legal charges and commissions, in which payment no preference shall be allowed to debts due on specialities; and if the whole of such absconding or concealed debtor or debtors estate shall not be then settled and distributed such trustees or any two of them, or the survivors or survivor of them, shall within the space of one year thereafter make a second dividend of all such monies as shall have come to his or their hands after the first division, and so from year to year until a final settlement thereof, and a just and equal distribution of such estate or effects shall have been made amongst the creditor or creditors of such absconding or concealed debtor or debtors in proportion to their respective just demands; and if any surplus shall remain after all just debts and legal charges and commissions are fully paid and satisfied, such surplus shall be paid or delivered to the said absconding or concealed person or persons, his, her or their executors, administrators or assigns.

Creditors having demands not due at the time of making a divi-

XVII. *And be it further enacted*, That any person or persons who may have given credit to any such absconding or concealed debtor

debtor or debtors on a valuable consideration, for any sum of money which shall not be due or payable at the time of any such division or distribution as aforesaid, but will become due or payable at some time after; shall and may nevertheless be admitted and considered as a creditor or creditors whose debts were then due, and shall receive a dividend of the estate of such absconding or concealed debtor or debtors in the same proportion as other creditors, deducting thereout only a rebate of legal interest for what shall be received on such debt or debts to be computed from the actual payment thereof to the time such debt or demand respectively would have become due.

dent to receive their proportion upon rebate of interest.

XVIII. *And be it further enacted*, That if any creditor or creditors shall neglect or refuse to give notice of or deliver unto the said trustees an account of his, her or their debt or demand or having any controversy relating to or concerning the estate of such absconding or concealed debtor or debtors shall refuse to adjust or settle the same with the said trustees in the manner in and by this act directed until after a division shall have been made of the monies and effects in the hands of the said trustees any such creditor or creditors shall not be entitled to any dividend and the whole monies then in hand to be divided, shall be divided by the said trustees among the other creditors; But in case the whole of such debtor or debtors estate shall not be divided and settled at the first division, then if such creditor or creditors respectively shall prove and deliver unto the trustees, his, her or their debt or demand before the time appointed for the second division or shall have settled such controversy as aforesaid with the said trustees, then such creditor or creditors shall have his, her or their first dividend or so much money as he, she or they would otherwise have been entitled to on the first division, before any second division shall be made.

Creditors neglecting &c. to deliver their accounts to be excluded from any dividend.

XIX. *And be it further enacted*, That any creditor or creditors residing out of this province, shall be entitled to all the privileges and benefits of this act, and that the attorney or attorneys of every such creditor or creditors residing out of this province, on producing a letter of attorney from such creditor or creditors, duly authenticated, and legal proof of the debt due, shall and may in all respects act, do and proceed for and in behalf of such creditor or creditors in the same manner as such creditor or creditors might or could do for securing or recovering their respective debts from such absconding or concealed debtor or debtors if such creditor or creditors was or were personally present.

Creditors out of this province authorized to act by attorneys.

XX. *And be it further enacted*, That the judges of the inferior court of common pleas in each county within this province and the mayor and recorder of the city of *Saint John*, and each

Judges of inferior courts and the mayor and recorder of the city of *St. John*

to put this act in execution for debts under £ 50 where warrants have issued from judges of both courts a *certiorari* shall be awarded to bring all the proceedings before the judges of the supreme court.

and every of them is hereby authorized and empowered to put this act in execution in their respective counties where the debt or sum due to any one creditor or joint company applying for relief does not exceed fifty pounds. *Provided always*, That where warrants shall be issued by any judge or judges of the supreme court, and also by any judge or judges of any of the said inferior courts against the estate or effects of the same person or persons, in such case the judges of the supreme court or any one of them, shall award a writ or writs of *certiorari* to the judge or judges of such inferior courts as the case may require, to remove the proceedings there, before the judge or judges of the supreme court, that he, or they may proceed upon both warrants or either of them.

Judge or judges issuing warrants to report to the court the proof of the debt, &c.

XXI. *And be it further enacted*, That the judge or judges who shall issue any warrant or warrants of attachment in pursuance of this act, shall make report to the court whereof he or they is or are judge or judges of the proof of the debt or demand made by the creditor or creditors on whose application such warrant or warrants issued, of the issuing of such warrant or warrants, of the notice thereon ordered, of the publication of such notice, of the appointment of trustees and of all other matters required of him or them by this act to be done out of court, and cause that report to be entered in the minutes of the said court, to be evidence of the facts so reported and such report or the record or entry thereof in the minutes of the said court shall be full and conclusive evidence of the facts so reported in all courts of record within this province.

Judges appointing trustees may endorse a certificate authorizing the proper officers to record the same.

XXII. *And be it further enacted*, That the judge or judges who shall make any such appointment of trustees, shall and is and are hereby required at the request of the trustees thereby appointed, or any one of them, to indorse on such appointment an allowance that the same may be recorded, which allowance signed by the said judges or any one of them, if a judge of the supreme court, shall be a sufficient warrant and authority to the secretary of this province, and all or any of the clerks of the respective cities or counties within this province to record the same. And if such judge, be a judge of an inferior court of common pleas, shall be a sufficient warrant and authority to the clerk of the county whereof he is a judge to record the same; and any appointment of trustees under the hand and seal, or hands and seals of any judge or judges authorized to put this act in execution, or the record thereof duly made in the said secretary's office, or in the office of the clerk of any city or county of this province, shall be full and conclusive proof in all courts and places within this province, that the person or persons against whose estate or effects such warrant or warrants issued, was or were at the time of issuing thereof absconding or concealed debtor or debtors within

Record of such appointment to be good proof in all courts.

within the meaning of this act, and that the said appointment and the proceedings previous thereto were regular and according to the directions of this act.

XXIII. *And be it further enacted,* That any judge or judges who shall issue such warrant or warrants of attachment as aforesaid, pursuant to this act, shall, and he or they is and are hereby required and directed to cause the affidavits or affirmations of the creditor or creditors made before him or them previous to the issuing of such warrant or warrants respectively within thirty days after the taking of such affidavit or affirmation, and such warrant or warrants of attachment as aforesaid, within thirty days after the return thereof by such Sheriff as shall return the same, together with the Sheriff's return thereof, to be delivered into the office of the clerk of that court, whereof he or they is or are judge or judges which clerk is hereby required and commanded to mark or cause them to be marked respectively with the day and year on which each of them respectively shall be filed in his office, and to preserve the same amongst the papers filed in such office. And all trustees hereafter to be appointed by virtue of this act or the survivors or survivor of them, who by virtue of such appointment shall sell and convey any messuages, lands, tenements or hereditaments, shall cause such appointment of trustees to be duly proved or acknowledged and allowed, so that the same may be recorded, and shall cause the same to be entered of record either in the secretary's office of this province or in the office of the clerk of the city or county wherein such messuages, lands, tenements or hereditaments do lie. And every appointment of trustees hereafter to be made in pursuance of this act or the record thereof made by such proper officer as aforesaid, or an office copy thereof attested by any such proper officer as aforesaid, in case such record should have perished by fire or other accident, together with a legal title or conveyance from such trustees or any two of them, or the survivors or survivor of them proved or to be proved in due form as by law required, shall be a full, compleat and perfect title for such messuages, lands, tenements or hereditaments, to such purchaser or purchasers, his, her, or their heirs and assigns, against such absconding or concealed debtor or debtors, his, her, or their heirs or assigns, and all other persons claiming or to claim by, from or under him, her or them, by virtue of any act deed, matter or thing, after such first public notice as aforesaid given.

Judges issuing warrant of attachment to file the same together with the affidavits in the office of their respective courts.

Trustees selling real estate to prove and record their appointment.

Record of the appointment of trustees and a legal conveyance from them to be deemed a good title.

XXIV. *And be it further enacted,* That such trustees as shall hereafter be appointed by virtue of this act shall keep a regular book or regular books of account of all such monies as shall come to their hands by reason or on account of such their appointment, to which book or books every creditor interested in such monies or estate at all reasonable times may have recourse. And that such

Trustees to keep an account of their receipts to be open to the inspection of the creditors.

To be subject to the orders of the court the judges whereof appointed them.

And to render to the same court an account of their proceedings attesting thereto in open court.

Trustees to be allowed 5 per cent for their trouble.

Special matter given in evidence under general issue.

Continuance of the act.

such trustees and each of them shall be subject to such orders and directions for the more effectual putting this act in execution, and finishing a distribution of such estate or effects as may come to their hands by virtue of such appointment as shall from time to time be made and given in the court by the judge or judges whereof such appointment of trustees was made. And also that such trustees shall render unto the court by the judge or judges whereof they were appointed, a just and true account or accounts in writing, upon oath made in open court of their proceedings and accounts in the premises by virtue of their appointment, which shall be filed with the clerk of the said court for the satisfaction of all persons concerned. And such trustees of the estate of any such absconding or concealed person or persons shall and may retain and keep in their hands for the trouble and services to be by them performed, the sum of five per cent on the whole sum which shall come into their hands by virtue of such appointment before each dividend made, over and above all necessary disbursements in the premises.

XXV. *And be it further enacted*, That if any person or persons shall be sued for any matter or thing done in pursuance or by virtue of this act, it shall and may be lawful for him, her or them, to plead the general issue and give the special matter in evidence. And also that this act shall be beneficially construed for the creditors in all courts of record within this province; and that the same shall continue and be of force as to the powers of judges to grant such warrants of attachment and exercise the powers hereby given until the first day of February, which will be in the year of our Lord one thousand seven hundred and ninety. And from thence to the end of the then next session of the general assembly of this province. But shall continue and be in full force as to the power of every court, person, and trustees, that shall be appointed as aforesaid, by virtue of this act before its above limitation and have any duty or thing thereby enjoined or required to be done until a full and final settlement and distribution shall be made by them and finished according to the true intent and meaning of this act.

CAP. XIV.

An ACT for PREVENTION of FRAUDS
and PERJURIES.

Preamble.

FOR prevention of many fraudulent practices, which are commonly endeavour'd to be upheld by perjury and subornation of perjury; *Be it enacted by the Governor, Council and Assembly,*

sembly, That all leases, estates, interests, of freeholds, or terms of years, or any uncertain interest of, in, to or out of any messuages, manors, lands, tenements, or hereditaments, made or created by livery and seisin only, or by parole, and not put in writing, and signed by the parties so making or creating the same, or their agents thereunto lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not either in law or equity be deemed or taken to have any other or greater force or effect; any consideration for making any such parole, leases or estates, or any former law or usage, to the contrary notwithstanding.

Leases &c. or uncertain interest in messuages &c. created by livery and seisin only, and not in writing shall have the effect of estates at will only.

II. *Except nevertbeless*, All leases not exceeding the term of three years from the making thereof, whereupon the rent reserved to the landlord, during such term, shall amount unto two third parts at the least of the full improved value of the thing demised.

Except leases not exceeding three years, and the rent equal to two thirds the value.

III. *And moreover*, That no leases, estates or interests, either of freehold, or terms of years, or any uncertain interest, of, in, to or out of any messuages, manors, lands, tenements, or hereditaments, shall be assigned, granted or surrendered, unless it be by deed or note in writing, signed by the party so assigning, granting or surrendering the same, or their agents thereunto lawfully authorized by writing, or by act and operation of law.

Leases &c. not to be assigned &c but in writing.

IV. *And be it further enacted*, That no action shall be brought whereby to charge any executor or administrator upon any special promise, to answer damages out of his own estate; or whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriages of another person; or to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them; or upon any agreement that is not to be performed within the space of one year from the making thereof; unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

No action to be brought on special promise of executors or administrators; on promise to answer debt of another; on sale of lands, &c. on agreement not to be performed in one year or promise of marriage, unless in writing.

V. *And be it further enacted*, That all declarations or creations of trusts or confidences of any lands, tenements or hereditaments shall be manifested and proved by some writing, signed by the party who is by law enabled to declare such trust, or by his last will in writing, or else they shall be utterly void and of none effect.

Declarations or creations of trusts or confidences of lands &c. not in writing, to be void.

VI. *Provided always*, That where any conveyance shall be made of any lands or tenements by which a trust or confidence shall

Trusts &c. arising, transferred or extinguished

by operation of law excepted.

shall or may arise or result by the implication or construction of law, or be transferred or extinguished by an act or operation of law, then and in every such case, such trust or confidence shall be of the like force and effect as the same would have been if this statute had not been made; any thing herein before contained to the contrary notwithstanding.

Grants &c. of trusts not in writing, void.

VII. *And be it further enacted*, That all grants and assignments of any trust or confidence shall likewise be in writing, signed by the party granting or assigning the same, or by such last will or devise, or else shall be utterly void and of none effect.

Sheriff to whom writ or process is directed on judgment, &c. to deliver execution of lands &c. of which other persons are seized in trust for him against whom such execution is sued.

VIII. *And be it further enacted*, That it shall and may be lawful for every sheriff or other officer to whom any writ or precept is or shall be directed, at the suit of any person or persons, of, for and upon any judgment, statute or recognizance hereafter to be made or had, to do, make and deliver execution unto the party in that behalf, suing, of all such lands, tenements, rectories, rents and hereditaments, as any other person or persons, be in any manner seized or possessed, or hereafter shall be seized or possessed in trust for him against whom execution is so sued, like as the sheriff or other officer might or ought to have done, if the said party against whom execution hereafter shall be so sued, had been seized of such lands, tenements, rectories, rents or other hereditaments of such estate as they be seized of in trust for him at the time of the said execution sued; which lands, tenements, rectories, rents and other hereditaments by force and virtue of such execution, shall accordingly be held or enjoyed, freed and discharged from all incumbrances of such person or persons as shall be so seized or possessed in trust for the person against whom such execution shall be sued; and if any *cestuy que trust* hereafter shall die, leaving a trust in fee simple to descend to his heir, there and in every such case such trust shall be deemed and taken, and is hereby declared to be assets by descent, and the heir shall be liable to and chargeable with the obligation of his ancestors for and by reason of such assets, as fully and amply as he might or ought to have been, if the estate in law had descended to him in possession in like manner as the trust descended; any law, custom or usage to the contrary notwithstanding.

If *cestuy que trust* die leaving a trust in fee simple, such trust shall be deemed assets by descent.

Heir not chargeable out of his own estate by reason of an estate or trust made assets by this act; but such assets liable as at common law.

XI. *Provided always*, That no heir that shall become chargeable by reason of any estate or trust made assets in his hands by this law, shall by reason of any kind of plea or confession of the action, or suffering judgment by *nient dedire*, or any other matter, be chargeable to pay the condemnation out of his own estate; but execution shall be sued of the whole estate so made assets in his hands by descent; in whose hands soever it shall come after the writ purchased, in the same manner as it is to be at and by the common law, where the heir at law pleading a true plea, judgment is prayed against him thereupon, any thing in this present act contained, to the contrary notwithstanding.

X. And for the amendment of the law in the particulars following; *Be it further enacted*, that from henceforth any estate *pur auter vie*, shall be deviseable by a will in writing, signed by the party so devising the same, or by some other person in his presence and by his exprefs directions, attested and subscribed in the presence of the devisor by three or more witnesses; and if no such devise thereof be made, the same shall be chargeable in the hands of the heir, if it shall come to him by reason of a special occupancy, as affets by descent, as in case of lands in fee simple; and in case there be no special occupant thereof, it shall go to the executors or administrators of the party that had the estate thereof, by virtue of the grant, and shall be affets in their hands.

Estate *pur auter vie*, deviseable by will; and if no devise, chargeable in the hands of the heir to whom it comes by special occupancy, if no special occupant, shall be affets in the hands of executors or administrators.

XI. *Be it enacted*, That any judge or officer of any of his Majesty's courts, that shall sign any judgments, shall at the signing of the same, set down the day of the month and year of his so doing, upon the paper, book, docket or record which he shall sign; which day of the month and year shall be also enter'd upon the margent of the roll of the record where the said judgment shall be entered.

Judge or officer of court signing judgments to set down the day of the month, &c.

XII. *And be it enacted*, That such judgments as against purchasers *bona fide* for valuable consideration of lands, tenements or hereditaments to be charged thereby, shall in consideration of law, be judgments only from such time as they shall be so signed, and shall not relate to the first day of the term whereof they are enter'd, or the day of the return of the original or filing the bail.

Such judgments as against *bona fide* purchasers to take effect from the time of signing.

XIII. *And be it further enacted*, That no writ of *feri facias* or other writ of execution shall bind the property of the goods against whom such writ of execution is sued forth, but from the time that such writ shall be delivered to the sheriff, under-sheriff or coroners, to be executed; and for the better manifestation of the said time, the sheriff, under-sheriff and coroners, their deputies and agents, shall upon the receipt of any such writ, (without fee for doing the same) endorse upon the back thereof the day of the month and year whereon he or they receive the same.

Writ of *feri facias*, not binding but from the time of delivery to the sheriff, such time to be indorsed on the same.

XIV. *And be it further enacted*, That no contract for the sale of any goods, wares and merchandizes, for the price of ten pounds sterling or upwards, shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized.

Contract for sale of goods &c. not good, unless part of the goods accepted and received by the buyer or some note in writing.

Recognizances not to bind lands &c. but from the time of enrolment.

XV. *And be it further enacted*, That the day of the month and year of the enroiment of the recognizances shall be set down in the margent of the roll where the said recognizances are enrolled, and that no recognizance shall bind any lands, tenements or hereditaments in the hands of any purchaser *bona fide* and for valuable consideration, but from the time of such enrolment, any law, usage or course of any court to the contrary notwithstanding.

CAP. XV.

An ACT for the regulating WEIGHTS and MEASURES.

I. *Be it enacted by the Governor, Council and Assembly,*

Weights and measures to be according to the standard of the exchequer.

Persons convicted of others forfeit five shillings for every offence to the use of the poor.

THAT there shall be one just beam or ballance, one certain weight and measure and one yard according to the standard of his Majesty's Exchequer in England, used throughout this province; and whosoever shall keep any other weight, measure or yard whereby any corn, grain or other thing is bought or sold, shall forfeit for every offence *five shillings*, being thereof convicted by the oath of one sufficient witness before any justice of the peace, to be levied by distress and sale of the offender's goods, to the use of the poor of the town or parish where such offence shall be committed.

Clerks of the market annually chosen by the towns or parishes to procure all weights and measures to be marked.

Clerks fees and penalty for neglect or refusal to assay, seal and mark such weights, &c.

II. And for the better observation of and putting in execution this act, *Be it further enacted*, that the clerks of the market to be annually appointed or chosen in the several towns or parishes in the respective counties in this province shall procure a set of weights and measures according to such standard and shall cause to be assayed, sealed and marked with the letters G. III. R. all weights and measures brought to him for that purpose, to be used in the respective towns and parishes for which they shall be so appointed or chosen, for each and every of which weights and measures so assayed, sealed and marked, the said clerk of the market shall have and take *one penny*, and if any clerk of the market shall neglect or refuse when thereunto required, to assay, seal and mark any weight or measure he shall forfeit for every offence *five pounds* on conviction by presentment or indictment at the quarter sessions, one moiety thereof to the prosecutor and the other moiety to the use of the poor of the town or parish where such offence shall be committed, to be levied by distress and sale of the offender's goods, and for default of such distress the offender to be imprisoned by warrant of the justices at such session till payment be made. *Saving always nevertheless*, unto the city of

Saint

Saint John, and the Mayor, Aldermen and Commonalty of the same city, and all and every of them, all such rights, priviledges and ufages as they or either of them can justly claim as clerk of the market within the said city or otherwise howsoever, any thing herein contained to the contrary notwithstanding.

CAP. XVI.

An ACT for ESTABLISHING a TENDER in all PAYMENTS to BE MADE in this PROVINCE.

WHEREAS it is necessary for the ascertaining of contracts, Preamble. to determine the value of the coin in which all tenders may be lawfully made.

II. *Be it enacted by the Governor, Council and Assembly*, That an English guinea shall pass current and be received for *twenty three shillings and four pence*, and a silver English or French crown piece for *five shillings and six pence*, and all other English gold and silver coin in the like proportion, and that Spanish mill'd dollars shall pass current and be received for *five shillings* each, and a half joannes, for *forty shillings*, in all payments to be made within this province. Value of coin at which to pass in all payments viz. English guineas at 23/4. French crowns at 5/6. Spanish dollars at 5/ half joannes at 40/ and other gold and silver money in proportion.

CAP. XVII

An ACT for ESTABLISHING the RATE of INTEREST.

I. *Be it enacted by the Governor, Council and Assembly*,

THAT no person or persons whatsoever, upon any contract which may be made, shall directly or indirectly accept or receive for loan of any monies, wares, merchandize, or other commodities whatsoever, above the value of *six pounds* for the forbearance of *one hundred pounds* for the term of *one year*, and so after that rate for a greater or less sum, or for a longer or shorter time; and that all bonds, contracts, obligations and assurances whatsoever, for payment of any principal, or money, to be lent, or covenanted to be performed, whereupon, or whereby there shall be reserved, taken, or received above the rate of *six pounds* for *one hundred pounds* as aforesaid, shall be utterly void; and that all and every person, or persons whatsoever, who shall, upon any contract, bond, obligation or assurance to be made, take, accept Not more than 6 per cent. interest to be received for loan of monies, wares, &c.

Bonds &c. securing more than 6 per cent. interest to be void.

Persons who shall on any contract, bond &c. take more than 6 per cent. interest

shall forfeit the value of the principal sum &c one half to the King and the other to the prosecutor.

or receive by way or means of any corrupt bargain, loan, exchange, shift or transfer of any wares, merchandize or other thing or things whatsoever, by covin, or by any deceitful way or means whatsoever, for the forbearing, or giving day of payment, beyond *one whole year*, of and for their money, wares, merchandize or other things, above the sum of *six pounds* for the forbearing of *one hundred pounds*, for *one year*, and so after that rate, for a greater or less sum, or for a longer or shorter time, shall forfeit and pay for every such offence, the full value of the principal sum or sums of money, wares, merchandize or other things so lent, bargained, exchanged or shifted; together with all interest, and other emoluments accruing thereon, one moiety thereof to be to the KING'S MOST EXCELLENT MAJESTY, his heirs and successors for the public use of this province, and the support of the government thereof; and the other half or moiety to him, or them that shall sue for the same, to be recovered by action of debt, bill, plaint or information in the supreme court or in any of his Majesty's courts of record, in the county where the offence shall be committed. *Provided*, that nothing in this act shall extend, or be construed to extend to, or affect any specialty, obligation, instrument or agreement in writing, that shall be made, entered into or executed for any money lent, or advanced upon the bottom of any ship or vessel; or to prevent the full recovery of damages on protested bills as by law established; or against the recovery of any penalty incurred or forfeited by the non-fulfilling of any contract or agreement entered into for the performance of certain things and conditions where the penalty therein expressed becomes mutually binding, any thing to the contrary notwithstanding.

This act not to extend to bottomry, to damages on protested bills or forfeitures for non-fulfilling contracts, &c.

Prosecutions under this act to be commenced within twelve months.

This act not to extend to contracts for the loan of cattle or live stock let on shares &c. at the risk of the lender

II. *And be it further enacted*, That all prosecutions for any forfeitures incurred by this act, shall be commenced by the person or persons aggrieved, or by any person who shall sue for the same within twelve months from the time the offence was committed; *Provided*, that nothing in this act shall be construed to extend to any contract for the loan or hire of any grain, cattle or live stock let out on shares or on such terms as the parties may agree, in case the lender take the risk of casualties upon himself, in which case such borrower shall not avail himself of any loss suffered thro' his wilful neglect or any voluntary damage which may be committed by him, any thing in this act to the contrary thereof notwithstanding.

CAP. XVIII.

An ACT for preventing the MULTIPLICITY of LAW SUITS.

I. **W**HEREAS a provision for setting mutual debts one against the other is highly just and reasonable at all times, and tends to prevent a multiplicity of law suits. Preamble.

II. *Be it enacted by the Governor, Council and Assembly,* That where there are mutual debts between the plaintiff and defendant in any court of record in this province, or if either party sue or be sued as executor or administrator where there are mutual debts between the testator or intestate and either party, one debt may be set against the other, and such matter may be given in evidence upon the general issue or pleading in bar, as the nature of the case shall require so as at the time of his pleading, the general issue where any such debts of the plaintiff his testator or intestate is intended to be insisted on in evidence, notice shall be given of the particular sum or debt so intended to be insisted on and upon what occasion it became due or otherwise, such matter shall not be allowed in evidence upon such general issue. Where mutual debts between plaintiff and defendant, one set against the other and given in evidence under general issue, notice to plaintiff of debt to be insisted on.

III. *And be it further enacted,* That by virtue of this act, mutual debts, may be set against each other, either by being pleaded in bar, or given in evidence on the general issue, in the manner herein before mentioned notwithstanding, that such debts are deemed in law to be of a different nature, unless in cases where either of the said debts shall accrue by reason of a penalty contained in any bond or specialty, and in all cases where either the debt for which the action hath been or shall be brought, or the debt intended to be set against the same, hath accrued or shall accrue by reason of any such penalty the debt intended to be set off, shall be pleaded in bar, in which plea shall be shewn how much is truly and justly due on either side, and in case the plaintiff shall recover in any such action or suit, judgment shall be entered for no more than shall appear to be truly and justly due to the plaintiff after one debt being set against the other as aforesaid. And if upon trial of the issue between the parties, the plaintiff shall become nonsuit, or the jury shall not assess damages to the plaintiff over and above the debt, or sum of which notice of set-off shall have been given as aforesaid, then the plaintiff shall have no costs, but shall pay to the defendants or his attorney costs to be taxed. And if upon such trial, it shall appear to the jury that the plaintiff is over-paid, then they shall find a verdict for the defendant, and therewith certify to the court how much they find the plaintiff to be indebted or in arrear to the defendant more than will answer the debt or sum so set-off, and found due by the same verdict and the sum or sums so certified shall be recorded with the verdict, Where the debt to be set off shall accrue by reason of a penalty and is pleaded in bar, the sum justly due must be shewn in the plea. Costs paid by plaintiff if balance found for defendant.

If plaintiff refuse to pay the balance found against him, defendant shall have execution for the same and costs.

verdict, and shall be deemed as a debt of record, and if the plaintiff refuse to pay the same, the defendant for the recovery thereof, shall have execution for the same together with the costs of the said action, any law, usage or custom to the contrary in anywise notwithstanding.

CAP. XIX.

An ACT for permitting persons of the profession of the people called **QUAKERS** to make an **AFFIRMATION** instead of an **OATH**.

I. Be it enacted by the Governor, Council and Assembly,

People called Quakers to make affirmation instead of oath.

THAT every person of the profession of the people called Quakers, who shall be required upon any lawful occasion to take an oath, shall, instead of an oath in the usual form, be permitted to make his or her solemn declaration or affirmation in these words, to wit:

Form of affirmation.

I A. B. do solemnly, sincerely, and truly declare and affirm.

Which solemn affirmation shall and is hereby declared to be of the same force and effect in all cases where by law an oath shall be required, as if such Quaker had taken an oath in the usual form.

False affirmation punished as perjury.

II. And be it further enacted, That every person who shall have made such solemn affirmation, and shall be convicted of wilfully, falsely and corruptly having affirmed any thing which if the same had been sworn in the usual form would have amounted to wilful and corrupt perjury, shall incur the same penalties as persons convicted of wilful and corrupt perjury.

Not to affirm in criminal causes extending to life or limb.

III. Provided, That no Quaker or reputed Quaker, shall by virtue of this act, be admitted to give evidence in any criminal cause extending to life or limb, by such solemn declaration or affirmation as is hereby directed.

No persons deemed Quakers unless they affirm they are and have been so for one year.

IV. Provided also, That no persons shall be deemed Quakers within the intention of this act, unless they shall affirm in the form before directed, that they are of the profession of the people called Quakers, and have been so for one year then last past.

CAP. XX.

An ACT for admitting DEPOSITIONS *DE BENE ESSE*, of WITNESSES, aged, infirm, and otherwise unable to travel, and of WITNESSES departing from the Province.

I. *Be it enacted by the Governor, Council and Assembly,*

THAT when it shall so happen that any of the witnesses which shall be judged necessary to be produced on the trial of any cause between party and party, shall be infirm, aged, or otherwise unable to travel, or when any such witness or evidence is obliged to leave the province, it shall and may be lawful for any one of the judges of the court where the cause is to be tried after declaration filed, on due notice given to the adverse party to be present (if he see fit) to take the deposition of such infirm or aged person, or persons unable to travel, or who is obliged to leave the province, and such depositions so taken and certified under the hand and seal of the said judge and sealed up, and directed to such court, shall be received as legal evidence in such cause, and also when the title to land shall be in question in all future causes between the same parties or persons holding under them, for the same land.

Depositions of witnesses who shall be infirm, aged, unable to travel or obliged to leave the province, taken by a judge after declaration filed and the adverse party having been notified, shall be received as evidence.

Admitted in future causes between the same parties in question of title to land.

II. *Provided,* That proof be made on oath, that due notice was given to the adverse party of the time and place of taking such depositions.

Proof on oath of notice to adverse party.

III. *And provided nevertbeless,* That if such witnesses shall at the time of the trial of the cause, be in the province, or able to travel, they shall be required to give their testimony *viva voce*, at such trial, in the same manner, as if such depositions had not been taken.

If witness in the province or able to travel, shall testify *viva voce*, such deposition notwithstanding.

IV. *Provided also,* That all benefit of exceptions to the credit of such deponents shall be reserved in the same manner as on producing witnesses for examination, *viva voce*, at the trial.

Exceptions to the credit of deponents reserved.

V. *And be it enacted,* That every person of the profession of the people called Quakers, who shall be required to take an oath as aforesaid, shall instead of an oath be permitted to make his or her solemn affirmation.

Quakers to make affirmation instead of oath.

VI. *And be it also enacted,* That every person who shall have made such oath or solemn affirmation, and shall be convicted of wilfully, falsely and corruptly having sworn or affirmed any thing, shall incur the same penalties as persons convicted of wilful and corrupt perjury.

False swearing punished as perjury.

CAP. XXI.An ACT to prevent unnecessary expence
in ACTIONS on the CASE on JUDGE-
MENT by DEFAULT.*Be it enacted by the Governor, Council and Assembly,*

Where judge-
ment is suffered
by default, jus-
tices may assess
damages, unless
defendant apply
for a jury of
enquiry.

THAT from and after the publication of this act, in all ac-
tions on the case wherein judgment is suffered by default,
the justices in the court wherein such judgment is given may
assess the damages at the next succeeding term, and give final
judgment for the sum so assessed; unless the defendant in such
cause should apply for a jury of enquiry, in which case the she-
riff is to proceed to ascertain the damages as has been heretofore
practised.

CAP. XXII. ,An ACT for ascertaining DAMAGES
on protested BILLS of EXCHANGE.*I. Be it enacted, by the Governor, Council and Assembly,*

Protested bills on
Europe subject
to ten per cent.
damages, cost of
protesting, pos-
tage, and six
per cent interest.

THAT from and after the *first day of April, one thousand
seven hundred and eighty six*, all bills of exchange drawn
from and after said time by persons residing within this province
upon persons in Europe, that may be sent back protested shall
be subject to *ten per cent.* damages, together with the accusto-
med charge of protesting and postage, and also *six per cent. per
annum* interest on the amount of principal, damages and charges
to commence from the day of the date of the protest on said bill
for non-payment, and continue 'till the same is paid.

Protested bills on
America and
West-Indies
subject to five
per cent. dama-
ges, &c.

II. *And be it further enacted*, That all bills of exchange
drawn by persons residing within this province after said time on
persons in any part of America, and the West-Indies and sent back
protested shall be subject to *five per cent.* damages, together with
the accustomed charge of protest and postage and also *six per
cent. per annum* interest on the amount of principal damages and
charges to commence from the date of the protest for non-pay-
ment, and continue till the same is paid.

Protested bills
drawn by persons
not residing in
the province but
found therein,
subject to the
same damages,
&c.

III. *And be it further enacted*, That all bills drawn, or en-
dorsed by persons not residing in this province, and who at any
time may be found therein shall be subject to the same damages,
charges and interest as if the same had been drawn or endorsed by
persons who actually did reside in the province.

CAP. XXIII.

An ACT for giving the like REMEDY upon PROMISSORY NOTES as on INLAND BILLS of EXCHANGE.

Be it enacted, by the Governor, Council and Assembly,

THAT all notes in writing for any sum of money, payable to order or bearer, shall be assignable and indorsable over, in the same manner as inland bills of exchange are by the custom of merchants; and that any person or persons to whom, or to whose order, such note shall be made payable shall and may maintain, his, her or their action for such sum of money in like manner as in cases of inland bills of exchange, with damages and costs of suit.

Notes in writing for money payable to order, assignable as inland bills of exchange.

CAP. XXIV.

An ACT to enable CREDITORS more easily to recover their DEBTS from JOINT PARTNERS.

WHEREAS creditors are often put to great trouble and difficulty in recovering debts due from joint partners, the proceeding to outlawry against persons who cannot be taken by process, not being in use in this province, and doubts have arisen, whether any one joint partner is now compellable to answer for the partnership debts, unless all are brought into court, which many times cannot be done, for remedy whereof,

Preamble.

II. *Be it enacted by the Governor, Council and Assembly,* That all persons that now are or hereafter shall be jointly indebted to any other person or persons whatever, for any joint contract, obligation, matter or thing whatsoever, for which remedy could or might be had at law against such debtors, in case all were or could be taken by process issued out of the courts of this province, shall be answerable to their creditors separately for such debts; that is to say, such creditor or creditors shall and may issue process against such joint debtors, in the manner now in use, and in case any or either of such joint debtors shall be taken, and brought into court by virtue of such process, he, she or they, so taken and brought into court, shall answer to the plaintiff or plaintiffs, and in case the judgment pass for the plaintiff or plaintiffs, he or they shall have his or their judgment and execution against those that are brought into court, and against the other joint debtors named in the process, in the same manner as if they had been all

joint debtors answerable separately.

Creditor may issue process against joint debtors, as usual, and if any are taken, judgment and execution shall be had against them and others, named in the process, tho' not taken.

Execution not executed against the body or lands or goods of persons not taken before *scire facias*.

taken and brought into court by virtue of such process. *Provided always,* That it shall not be lawful, by virtue of this act, to execute such execution against the body, or the lands, or goods, the sole property of any person not brought into court, before *scire facias* brought against him or them on such judgment.

CAP. XXV.

An ACT to prevent FRIVOLOUS and VEXATIOUS ARRESTS.

Defendant not held to special bail on process from supreme court for less than £10. or from inferior court for less than 40s.

In suits for a less sum defendant to be served with a copy of process, and in case of non-appearance plaintiff may after affidavit made of such service enter common appearance &c.

FOR the more effectual preventing frivolous and vexatious arrests, *Be it enacted by the Governor, Council and Assembly,* That no person shall be held to special bail upon any process issuing out of the supreme court where the cause of action shall not amount to the sum of ten pounds or upwards, nor out of any inferior court within this province, where the cause of action shall not amount to forty shillings or upwards. And that in all suits brought for a less sum, the defendant shall be served with a copy of the process within the jurisdiction of the court issuing such process, in manner as hath heretofore been accustomed, and if such defendant or defendants shall not appear at the return of such process, or within twenty days after such return, it shall and may be lawful to and for the plaintiff or plaintiffs, upon affidavit being made before any judge of the court out of which such process shall issue, or before any commissioners authorized to take affidavits to be read in the supreme court, and filed in the proper court, of the personal service of such process as aforesaid, to enter a common appearance, or file common bail for the defendant or defendants, and to proceed thereon as if such defendant or defendants had entered his, her, or their appearance, or filed common bail.

When the cause of action amounts to £10. or 40s. affidavit to be made thereof before a judge &c.

II. *And be it further enacted,* That in all cases where the plaintiff or plaintiffs cause of action shall amount to the sum of ten pounds or forty shillings, or upwards as aforesaid, affidavit shall be made and filed of such cause of action, which affidavit may be made before any judge of the court from which such process shall issue, and before any commissioner appointed to take affidavits to be read in the supreme court, or else before the officer who shall issue such process or his deputy, if such suit shall be brought therein: And in all cases, when the plaintiff or plaintiffs shall reside without this province, in any of his Majesty's plantations, before any judge of the supreme or superior court in such plantation, and the sum or sums specified in such affidavit shall be indorsed on the back of such writ or process, for which sum or sums so indorsed, the sheriff or other officer to whom such writ or process shall be directed, shall take bail, and for no more. But if any writ or process

If plaintiff resides in his Majesty's plantations without the province, before a judge of supreme court there. Sum indorsed on writ, for which bail to be taken and no more. Or writ or pro-

process shall issue for the sum of ten pounds or forty shillings, or upwards as aforesaid, and no affidavit or indorsement shall be made as aforesaid, the plaintiff or plaintiffs shall not proceed to arrest the body of the defendant or defendants, but shall proceed in like manner as is by this act directed in cases where the cause of action does not amount to the sum of ten pounds or forty shillings, or upwards as aforesaid.

cess for £10. or 40s. and no affidavit, the body of defendant shall not be arrested.

C. A. P. XXVI

An ACT to PREVENT GAMING.

I. Be it enacted by the Governor, Council and Assembly,

THAT for the more effectually preventing and suppressing gaming of every kind, all notes, bills, bonds, judgments, mortgages or other securities or conveyances whatsoever, given, granted, drawn or entered into, or executed by any persons whatsoever, where the whole or any part of the consideration of such conveyances or securities shall be for any money, or other valuable thing whatsoever, won by gaming or playing at cards, dice, tables, tennis, bowls, or other game or games whatsoever, or by betting on the sides or hands of such as do game at any of the games aforesaid, or for the reimbursing or repaying any money knowingly lent or advanced for such gaming or betting as aforesaid or lent and advanced at the time and place of such play, to any person or persons so gaming or betting as aforesaid, or to any other person or persons in trust for, or to the use of them so gaming or betting, or that shall during such play so game or bet, shall be utterly void, frustrate and of none effect, to all intents and purposes whatsoever: and that where such mortgages, securities and other conveyances, shall be of lands, tenements or hereditaments, or shall be such as incumber or affect the same, such mortgages, securities or other conveyances, shall enure and be to and for the sole use and benefit of, and shall devolve upon such person or persons, as should or might have, or be entitled to such lands, tenements or hereditaments, in case the said grantor or grantors thereof, or the person or persons so incumbering the same, had been naturally dead, and as if such mortgages, securities or other conveyances, had been made to such person or persons so to be entitled after the decease of the person or persons so incumbering the same; and that all grants or conveyances to be made for the preventing such lands or tenements or hereditaments from coming to, or devolving upon, such person or persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void, and of none effect to all intents and purposes whatsoever.

Notes, bonds &c. for money or other things won by gaming or playing at cards, &c. void and of no effect.

Mortgages &c. of lands &c. made and executed for money or other things won as aforesaid, shall enure to the use of persons otherwise entitled, &c. if made to them.

In actions for money &c. won on any wager or bett, the plaintiff shall suffer a non-suit and the defendant recover costs.

II. *And be it hereby further enacted*, That in all actions of the case or other actions, (except such suits as shall be brought under this act) which shall or may hereafter be brought in any court of judicature within this province, for any sum or sums of money, in which it shall appear on trial of the same that the cause of action accrued by or in consequence of a wager or gaming bett, that the plaintiff shall in all such cases suffer non-suit, and the defendant recover full costs against him.

If more than 20s or 20s worth be lost at cards &c. within twenty four hours or at one sitting and the same be paid or delivered, the party losing may sue for and recover the same with costs.

III. *And be it further enacted*, That any person or persons whatsoever, who shall by playing at cards, dice or tables, or any other game or games whatsoever, or by betting on the fides or hands of such as do play at any game or games as aforesaid, within twenty four hours or at any one meeting or sitting, loose to any one or more person or persons, so playing or betting, any sum or sums of money exceeding the sum of twenty shillings, or any other valuable thing or things whatsoever beyond the value of the sum of twenty shillings, and shall pay or deliver the same or any part thereof, the person or persons so losing and paying or delivering the same, shall be at liberty within one month then next following, to sue for and recover the money or goods so lost and paid or delivered, or any part thereof from the respective winner or winners thereof, with costs of suit, by action of debt founded on this act, to be prosecuted in any of his Majesty's courts of record, in which action it shall be sufficient for the plaintiff to alledge that the defendant or defendants are indebted to the plaintiff, or received to the plaintiffs use, the monies so lost and paid, or converted the goods won of the plaintiff to the defendants use whereby the plaintiffs action accrued to him according to the form of this act, without setting forth the special matter.

Money or other thing won from minors may be sued for and recovered by guardian or master and treble the value with costs.

IV. *And be it further enacted*, That the parent, guardian or master of any person or persons under the age of twenty one years shall likewise be at liberty to sue for and recover, in manner as is before prescribed, any money or other thing won by gaming from such persons within lawful age, and treble the value of the money so won, with costs of suit.

Persons convicted of fraud &c. in playing at any game as aforesaid shall forfeit five times the value of the money or thing won

V. *And be it further enacted*, That if any persons shall, by fraud, unlawful device, or ill practice whatsoever, in playing at any game or games whatsoever, or by bearing a share or part in the stakes, or by betting on the fides of such as shall play, win or acquire to themselves, or to any others, any money or other valuable thing, every person so winning or acquiring by such ill-practice as aforesaid, and being thereof convicted of any of the said offences, upon indictment or information, shall forfeit five times the value of the money or other thing so won as aforesaid; such penalty to be recovered by such person as shall sue for the same by such action as aforesaid.

VI.

VI. And for the better suppressing all public gaming houses, *Be it hereby further enacted*, That it shall and may be lawful to and for any two of his Majesty's justices of the peace to enter into any public houses suspected of keeping any gaming tables, and to order and direct the keepers of such gaming tables, if any such shall be found therein, to remove the same within forty-eight hours as a public nuisance; and any person refusing or neglecting to obey the order of such justices, the said justices shall have power to break and prostrate such public gaming tables, and also to require sufficient security, from persons keeping such gaming houses, for their good behaviour during twelve months, or for their appearance at the next quarter sessions, there to be prosecuted for offending against this act, or in case he or they shall refuse to find security, then to commit him or them to the common goal of the county for trial. On conviction, to be either fined or imprisoned, as the court shall direct.

Two justices may enter public houses suspected of keeping gaming tables and order their removal within 48 hours and on refusal to remove, may break and prostrate the same and require security from the offenders for their good behavior, &c.

In case of refusal to find security, offenders to be committed.

On conviction to be fined or imprisoned.

VII. *And be it further enacted by the authority aforesaid*, That it shall be lawful for any two justices of the peace to cause to be brought before them every person against whom information shall be lodged by the members of the grand jury sworn at the preceding session of the peace held in the county, or by some one of them that he or they have reason to suspect such person to have no visible estate or calling to maintain himself by, but that he does for the most part support himself by gaming; and if such person shall not make it appear that the principal part of his expenses is not maintained by gaming, such justices shall require of him security for his good behaviour for twelve months, and in default of his finding such security commit him to the common goal until he shall find such security.

On information of sworn grand jurors two justices to apprehend persons suspected of maintaining themselves by gaming.

If persons so charged do not prove the contrary, such justices may require security for 12 months and on non-compliance may commit.

CAP. XXVII.

An ACT for preventing IDLENESS and DISORDERS, and for punishing ROGUES, VAGABONDS, and other idle and disorderly persons.

I. *Be it enacted by the Governor, Council and Assembly,*

THAT all persons who not having any visible means of maintaining themselves, live idle and refuse to work for the usual wages, and all persons going about to beg alms, and all idle and wandering persons, who shall not have a pass or testimonial from some justice of the peace, setting forth from whence such idle and wandering persons shall have come and the place to which they are to pass, and all persons who return to such town parish or place from whence they have been legally removed by order of two justices of the peace, without bringing a certificate from

Persons not having any visible means of maintaining themselves, refusing to work, going about to beg alms, not having a pass from a justice, returning to the place from whence removed, shall be deemed idle and disorderly.

A justice of the peace may on information apprehend such idle or disorderly persons and examine them, and on refusal to answer or giving false answers may consider and deal with them as such.

from the town or parish whereunto they belong shall be deemed idle and disorderly persons, and it shall be lawful for any justice of the peace on receiving information that any idle or disorderly person or persons is or are in any place within his jurisdiction, to issue his warrant to the constables to search for and apprehend such idle and disorderly person or persons and bring him or them before such justice, who is hereby empowered to examine such person or persons not only as to their manner of livelihood and subsistence, but also as to the place from whence they came and where they were last settled, and they refusing to be examined or not making true answers to such questions as shall be put to them by such justice on such their examination, shall be considered as idle and disorderly persons within the intent and meaning of this act, and be dealt with accordingly.

Justice of the peace may commit offenders against this act to prison or house of correction.

II. *And be it further enacted*, That it shall and may be lawful for any justice of the peace to commit all and every person and persons by this act mentioned and described as idle and disorderly persons (and thereof convicted by their own confession by view or by the oath of one or more credible witness or witnesses, or refusing to be examined, or returning untrue answers as aforesaid) to prison or to the house of correction, there to be kept to hard labour for any time not exceeding one month.

Constables of towns, &c. required, on notice by an inhabitant to apprehend offenders against this act, and convey them to a justice to be examined, &c.

III. *And be it further enacted*, That if any person or persons shall be found offending in any town or parish or place against this act it shall and may be lawful for any constable of such town, parish or place, and he is hereby enjoined and required on notice thereof given him by any of the inhabitants, to apprehend and convey, or cause to be conveyed, such person so offending, to a justice of the peace of the county in order to be examined and proceeded against according to law. And if any constable after such notice given as aforesaid, shall refuse or neglect to use his best endeavors to apprehend and convey such offenders before a justice of the peace as aforesaid, being thereof legally convicted before such justice of the peace, every such constable shall forfeit and pay to the use of the poor thereof the sum of ten shillings, to be levied by distress and sale of the offender's goods, by warrant from such justice, and the overplus if any, after the charge of prosecution and of such distress shall be satisfied, shall be return'd to such offender.

Constables refusing or neglecting to apprehend &c. as aforesaid to be fined 10s.

Persons aggrieved may appeal to the next general quarter sessions on finding two sufficient securities in £ 10 each, to prosecute the same.

IV. *And be it further enacted*, That any person or persons who shall conceive him, her or themselves aggrieved by any act, judgment or determination of any justice or justices of the peace out of sessions in and concerning the execution of this act may appeal to the next general quarter sessions of the city or county on finding two sufficient securities in ten pounds each, to prosecute such appeal to effect.

C. A. P. XXVIII.

An ACT for the appointment of TOWN or PARISH OFFICERS in the several counties in this province.

I. *Be it enacted by the Governor, Council and Assembly,*

THAT the justices of the general sessions of the peace for the several counties in this province shall hereafter annually at the first sessions of the said court appoint out of every town or parish in the said county three fit persons to be overseers of the poor of the said town or parish, and at the same time, in like manner appoint one fit person in every town or parish in said county to be clerk of the said town or parish, who shall be sworn truly to enter and record all such matters and things, as shall relate to the said town or parish and shall appertain to his office, and shall also appoint two or more as they shall see convenient to be constables in said town or parish; and shall also appoint two or more as they shall see convenient to be fence viewers in such town or parish, and shall also appoint one clerk of the market in said town or parish, and shall also appoint a sufficient number in their discretion to be pound keepers, in said town or parish, and shall also appoint a sufficient number in their discretion to be cullers and surveyors of fish in said town or parish, and shall also appoint a sufficient number in their discretion to be surveyors of lumber, and of cord wood in said town or parish, and shall also appoint one sealer of leather in said town or parish, and shall also appoint a sufficient number in their discretion to be gaugers of casks in said town or parish, and shall also appoint a sufficient number in their discretion to be hogreeves in said town or parish, and shall also appoint three fit persons to be assessors in said town or parish of all such rates and taxes as shall be payable by any act or acts of the Governor, Council and Assembly of this province, and shall also appoint a sufficient number in their discretion to be surveyors and weighers of hay in said town or parish, and shall and may also appoint a sufficient number in their discretion in each town or parish to be inspectors and examiners of any staple commodity in such counties respectively for market or exportation, who shall be respectively sworn in said court, where they shall be so appointed, or within fourteen days after such appointment, before one of his Majesty's justices of the peace in the county where such town or parish lies; which court and justices respectively are hereby authorized to administer such oaths, to the faithful discharge of their duty, and also shall conform to the laws of this province respecting or regulating the same; and upon their or any or either of their refusal to accept, or being guilty of any neglect or misbehaviour in the execution of the duty of their respective offices, they shall forfeit and pay for the use of the poor of the said town or parish the sum of forty shillings, for every such refusal, neglect

Justice: of general sessions to appoint annually at the first sessions, overseers of the poor—town or parish clerks—constables—fence viewers—clerks of the market—pound keepers, cullers, &c. of fish—surveyors of lumber and cord wood—sealers of leather—gaugers of casks—Hogreeves—assessors of rates, &c. Surveyors, &c. of hay—inspectors, &c. of staple commodities in counties, who shall be respectively sworn in court or within fourteen days by a single justice.

For refusal or neglect shall forfeit 40s.

In case of death, leaving the province or change of town, two justices to appoint others.

or misbehaviour, to be recovered upon proof of such refusal, neglect or misbehaviour, by the oath of one credible witness, before any two of his Majesty's justices of the peace for the county where such town or parish is, to be levied by warrant of distress, and sale of the offender's goods and chattels, rendering the overplus, if any, after deducting the costs and charges of prosecution to the offender. And if any person so appointed shall leave the province, change the town of his residence, or happen to die within the period for which he shall be appointed to serve in any of the said offices, in such case any two of his Majesty's justices of the peace for the county shall and may appoint a fit person, who shall be sworn as aforesaid to the faithful discharge of his duty, and shall serve in such vacant office until another shall be appointed by such court of general sessions at their meeting next ensuing such vacancy.

Surveyors, &c. of hay, to be paid one penny per hundred and four pence per mile travel, by seller.

II. *And be it further enacted*, That the surveyors and weighers of hay, shall be paid for their trouble in viewing and weighing hay at the rate of one penny per hundred weight, and four pence per mile travel; if such travel exceed one mile to be paid by the seller.

In counties where the courts of sessions have been held this year before publication of this act, justices required to call special sessions for the appointment of officers aforesaid.

III. *And be it further enacted*, That in such of the counties in this province where the said court of general sessions of the peace has been already held in this year, or shall be held before the publication of this act, it shall and may be lawful, and the justices of the said sessions are hereby required to call and hold as soon as conveniently may be after the publication of this act a special sessions for the purpose of appointing the several officers as in and by this act is directed, which officers so appointed shall in all respects act, and be liable, as if they were appointed at the general sessions of the peace as herein before directed, and shall continue in their respective offices until other persons shall be appointed in their stead at the first general sessions of the peace to be held in such counties respectively, in the year of our Lord one thousand seven hundred and eighty-seven.

CAP. XXIX.

An ACT for preventing TRESPASSES.

Preamble.

WHEREAS sundry disputes have arisen and may arise between the occupiers of lands lying adjoining to each other respecting the fences and inclosures of the same.

Division fences to be erected, on notice, at the joint expense of occupiers of adjoining improved lands.

II. *Be it enacted by the Governor, Council and Assembly*, That the fences dividing improved lands belonging to any person or persons from improved lands belonging to any other person or persons, shall be built up, made and maintained at the joint and equal

equal expenſe of the occupiers of the ſaid lands lying on each ſide of ſuch fence or line whereon the fence is to be erected on notice from the occupiers of any ſuch lands, to the occupier of ſuch adjoining lands which fence ſhall be a good ſtrong and ſufficient fence and not leſs than four feet ſix inches high. And in caſe any perſon or perſons occupying ſuch lands on receiving ſuch notice ſhall neglect or reſuſe ſo to do, within ten days after due notice given him or them, it ſhall and may be lawful to apply to any one of the fence viewers, who is hereby empowered to view ſuch fence, or place where the ſame is propoſed to be erected, and to cauſe ſuch part as is deficient to be made, or otherwiſe to repair any already made if inſufficient, and the perſon or perſons whoſe right it was to build and maintain the ſame, or any part thereof, and ſhall have reſuſed, or neglected ſo to do, ſhall pay all the coſts, or charges ariſing from ſuch default.

To be four feet
6 inches high.

Fence viewers,
on application,
to cauſe fences to
be made or repaired
at the coſt
and charge of the
delinquent party.

III. *Provided always*, That no fence viewer ſhall be allowed more than five ſhillings per day for his own trouble. And if any fence viewer ſhall when notified neglect his duty, he ſhall for every ſuch offence forfeit the ſum of twenty ſhillings.

Fence viewers
allowed no more
than 5s. per day.
For neglect of
duty to forfeit
20s.

IV. *And be it further enacted*, That the juſtices in their quarter ſeſſions of the peace ſhall and are hereby empowered to make ſuch other regulations for preventing treſpaſſes by horſes, ſwine, ſheep, goats, and neat cattle, as ſhall be moſt expedient and agreeable to the nature and circumſtances of the ſeveral counties, towns, and pariſhes therein.

Courts of ſeſſions
to make other
regulations to
prevent treſpaſſes
by horſes, &c.

V. *Provided always*, That the owner, or occupier of any wood, barren, or burn'd land, and not under any improvement but adjoining to improved or cultivated lands, ſhall not be obliged to erect, or make, or maintain any part of the fence dividing ſuch wood, barren, burn'd or unimproved land, from lands ſo improved or cultivated, any law, uſage or cuſtom to the contrary notwithstanding.

Occupiers of
unimproved land
not obliged to
make ſuch a
fence.

VI. *And be it further enacted*, That when any damage ſhall be done by any horſes, ſheep, ſwine, goats, or neat cattle, by breaking any field or incloſure, fenced as aforeſaid, and deſtroying the produce thereof, the owners of ſuch treſpaſſing cattle ſhall pay to the party injured the amount of ſuch damages to be aſcertained by appraiſement of three credible freeholders where ſuch lands lie, being ſworn before a juſtice of peace, truly and impartially to value the ſame; and any ſuch perſon or perſons ſuſtaining ſuch injury may impound the ſaid horſes, ſheep, ſwine, goats or neat cattle, and the pound keeper ſhall cauſe the ſame to be cried as ſoon as may be. And if the owners thereof ſhall neglect to pay ſuch damages, as alſo to the pound-keeper one ſhilling per day for keeping each horſe or neat cattle, and ſix pence per day for each ſheep

Owners of ſuch
ſcc. breaking in-
to incloſures, ſhall
pay damages to
be appraised by
3 freeholders.

Horſes, &c.
found damaged
ſufficient to be im-
pounded in a field
after 14 days no-
tice to pay
charges, &c.

ſheep

sheep, swine, or goats, with charges of crying the same, within fourteen days after the same shall be impounded, such horses, cattle, sheep, goats, or swine, shall be publicly sold, or so many of them as may be necessary to defray the damages and charges, and the monies arising from such sale after deducting the damages and charges, shall be paid to the owner or owners thereof, and if no person appears, then to the overseers of the poor, for the use of the poor of such town or parish.

Overplus, after deducting charges, &c. paid to owner, if known, if not, to overseers of poor.

Persons rescuing horses, &c. driving to pound, to forfeit 20% over and above damages.

Persons convicted of pound breach or delivering horses, &c. impounded, to forfeit £3.

Towns or parishes to be provided with pounds.

VII. *And be it further enacted*, That if any person or persons shall rescue any horses, cattle, sheep, goats, or swine, from any hogreeve or other person whatsoever, driving such horses, cattle, sheep, goats or swine, to pound, the offender shall forfeit for such rescue twenty shillings, over and above all damages that may be sustained by the trespass, which penalty may be recovered, before any one of his Majesty's justices of the peace, on the oath of one credible witness, and to be levied by warrant of distress, and sale of the offender's goods. And if any person or persons shall make a breach of any pound, or shall by any indirect means deliver any horses, cattle, sheep, goats or swine, so impounded, the person or persons so offending and every of them shall upon conviction before any two justices *quorum unus*, forfeit for every such offence three pounds, which said penalties shall be applied to the use of the poor after deducting damages, charges, and expense of repairing such pound breach.

VIII. *And be it further enacted*, That every town or parish shall be provided with a sufficient pound, or pounds, as shall be thought necessary for such town or parish or place, to be fix'd in the most convenient situation, as the justices in their general sessions shall think fit, and at the expense of the inhabitants of such town or parish, to be assessed and collected, as other town or parish charges are.

CAPXXX.

An ACT to prevent the BURNING WOODS, by carelessly or wantonly FIRING the same.

Preamble.

I. **W**HEREAS the inhabitants of this province have frequently left fires burning which by communicating to the woods have done great damage not only to the proprietors of certain lands but also to the greater damage of the unlocated lands.

Persons convicted of kindling fires in

II. For prevention whereof, *Be it enacted by the Governor, Council and Assembly*, That from and after the publication of this act

act any person or persons who shall be convicted by his or their own confession or by the oath of one or more creditable witnesses or witnesses before any one or more justice or justices of the peace of any county within this province of having kindled any fire in any woods, fields, or other open place, and who shall depart leaving the same burning, and shall not either extinguish the same by water, or otherwise secure it so that it may not communicate to any woods, under-woods or brush whereby damage may ensue either to any private property or to any unlocated lands in this province, shall for every such offence (although no damage ensued) forfeit and pay the sum of three pounds, one half to the use of the informer and the other half to the use of the poor of the town where such offence shall have been committed, as well as be subject to all damages sustained in consequence of such fire, to be recovered by action of debt in any court of this province where the same shall be cognizable, with costs of suit.

woods, &c. and shall not extinguish or secure the same from communicating to other woods, shall forfeit £3, one half to informer the other to poor of the town and shall pay all damages.

C. A. F. XXXI.

An ACT to prevent nuisances by Hedges, Wears, Seines, and other incumbrances obstructing the passage of FISH, in the Rivers, Coves and Creeks of this Province.

I. *Be it enacted by the Governor, Council and Assembly,*

THAT if any person or persons after the publication of this act shall presume to erect or set up any hedge, wear or fish garth, or other incumbrances, or place any seine or seines, across any river, cove or creek in this province, otherwise than is herein after provided, such person or persons shall upon due conviction thereof by the oath of one or more witnesses or witnesses before any two of his Majesty's justices of the peace where such offence shall be committed, forfeit and pay a sum not exceeding ten pounds, one half of which shall be to the informer and the other half for the poor of the town or parish where such offence shall be committed. *Provided always,* That the justices in their general quarter sessions held in each county shall and are hereby empowered and directed to allow such wears to be erected, or floating nets to be used in such manner as they may judge necessary, said liberty or toleration to be granted under such express restrictions as that the wears so allowed to be erected, or floating nets so to be used shall not obstruct, injure, or hurt the natural course of the fish into any river or place where they usually go.

Persons setting up hedges, &c. across rivers or creeks, otherwise than is provided by this act, shall forfeit a sum not exceeding £10.

Courts of sessions may allow wears to be erected or floating nets used under restrictions.

Justices in sessions to appoint overseers of fisheries with power to remove obstructions.

II. *And be it further enacted*, That the justices in their sessions as aforesaid, may and are hereby empowered to appoint one or more fit persons to be overseers of the said fisheries who shall be sworn to the faithful discharge of their duty, and shall have power to remove any net, hedge, wear, fish garth, seine or other incumbrance, that shall be found in any river, cove or creek, contrary to the regulations so to be made by the said justices.

Nets, &c. found in rivers &c. set contrary to regulations of justices and not claimed in 10 days, may be sold by overseers.

III. *And be it further enacted*, That if any net, hedge, wear, fish garth, seine or other incumbrance, shall be found in any river, cove or creek, contrary to the regulations so made by the said justices, and no owner shall appear to claim the same in ten days, the said net or seine shall together with the fish found therein be forfeited and sold by the said overseers to satisfy the penalties aforesaid, the overplus if any, to be paid to the overseers of the poor, for the use of the poor of the town or parish where such offence shall be committed.

No net to be set in river St. John or broad part of Kennebeckacis longer than 30 fathoms and in the branches not more than one fourth the width.

Persons setting nets otherwise than herein last directed to forfeit £5.

IV. *And be it further enacted*, That no net shall be set longer than thirty fathoms in the main river St. John, or extend more than thirty fathoms into the same river or the broad part of the Kennebeckacis river, and in any of the branches of the said rivers not more than one fourth part of the width of the branch where such net shall be so set, and if any person or persons shall be found setting any net otherwise than is herein directed, such person or persons shall on due conviction thereof, before any two of his Majesty's justices of the peace on the oath of one or more witnesses or witnesses, forfeit and pay the sum of five pounds, one half to the informer, the other half to the poor of the town or parish where such offence shall be committed, to be levied by warrant of distress and sale of the goods of the offender; rendering the overplus if any be to such offender.

Justices of general sessions for the city & county of St. John, to regulate fisheries as far as the Boar's Head and affix penalties to enforce such rules.

V. *And be it further enacted*, That the justices of the general sessions of the peace for the city and county of St. John shall and may make such rules and regulations for the fisheries from the mouth of the river St. John to the Boar's Head, as they shall from time to time find necessary for the effectual preservation and free passage of the fish. And the said justices shall and may affix such penalties as they shall think necessary for the carrying into execution such rules and regulations so by them to be made, such penalties to be recovered in manner and to the uses aforesaid.

The rights &c. of the Mayor &c. of the city of St. John to be secured by this act.

Provided, That nothing in this act or in the rules and regulations to be made by virtue thereof shall extend or be construed to extend to abridge, diminish, or interfere with the rights of fishery or of the regulation thereof, given and granted to the mayor, aldermen and commonalty of, or to the freemen and inhabitants

of the city of St. John, or any or either of them in and by the charter of the said city, any thing herein contained to the contrary notwithstanding.

VI. *And be it further enacted*, That this act shall continue and be in force for two years from the publication thereof and no longer. And whereas there is no court of sessions at present establish'd in the county of Northumberland, *Be it further enacted*, That nothing in this act shall extend or be construed to extend to the said county of Northumberland.

Continuance of the act.

Not to extend to the county of Northumberland.

CAP. XXXII.

An ACT for laying out, repairing and amending HIGHWAYS, ROADS and STREETS, and for appointing COMMISSIONERS and SURVEYORS of HIGHWAYS within the several towns or parishes in this province.

WHEREAS the laying out and making roads for the more easy communication between different parts of this province, will be of great public utility and the laying out repairing and amending highways, roads and bridges in the respective counties is of great importance to the interest and general convenience of the inhabitants of this province.

Preamble.

II. *Be it enacted by the Governor Council and Assembly*, That *Amos Botsford, George Leonard, Zephaniah Kingsley, John Welden, William Anstrutber, James White, Jonathan Leavit, John Coffin, Oziab Ansley, Joshua Gidney, John Whitlock, Samuel Peabody, Elijah Miles, Robert Pagan, Jacob Buffington, James M^cNab, Edward Stelle, Garret Clepper, Robert Coalfrith and Simon Kollock*, be and are hereby appointed commissioners to view the ground and make a straight and perfect survey thereof as near as may be from the western or Carleton district of the city of Saint John, and from the town of Saint Andrew's in the county of Charlotte, and from the town of Sackville in the county of Westmorland, to the town of Fredericton in York county, thro' the counties of King's, Queen's and Sunbury, and also a road of communication from the said town of Sackville to the city of Saint John and between the river Miramichi and the river Saint John, for which purpose and more effectually to enable the said commissioners or any three of them to execute the service

Commissioners.

To view and survey the ground from the western district of St. John, from Sackville & from Sackville to Fredericton and also a road of communication from Sackville to the city of St. John and between the river Miramichi and St. John.

To call to their assistance surveyors and chain carriers.

service and trust in them reposed by this act it shall and may be lawful for the said commissioners or any three of them to call to their assistance one or more surveyors, and as many chain carriers as they shall think necessary, who are hereby empowered and directed to enter upon and pass any lands through which the straight roads as near as may be from and to the places aforesaid may run, or they may have occasion to travel over.

Carefully to view the nature of the country &c. to return at the next sessions of Assembly, maps &c. with an estimate of expense thereof and damage to individuals.

III. *And be it further enacted*, That the acting commissioners shall carefully view the nature of the country thro' which they pass, the fitness of the soil for roads and the streams over which bridges may be erected to make the roads commodious, and that the said commissioners shall at the next sessions of the Assembly return under their hands true and perfect maps and surveys of the lines to and from the places aforesaid, or with such alterations of the straight lines as they may judge will make the roads more practicable with an estimate of the expense of the whole and several parts thereof, and also of the damage it may occasion to any person thro' whose lands they may pass.

To receive donations, to keep accounts thereof and apply the same.

IV. *And be it further enacted*, That to enable the commissioners or the major part of them, to carry the objects of this law more immediately into execution, by clearing and making the several roads so to be laid out or either of them and to defray the expenses attending the same it shall and may be lawful to and for the said commissioners or any of them to ask and receive from any person or persons, gifts or donations, for all or either of the said roads, of which they are to keep particular accounts and apply the same accordingly; and the commissioners shall be under oath for the due and impartial performance of their duties, and shall render and lay before the assembly to whom they are hereby made accountable, a just and true account of the donations received and the several disbursements and sums of money laid out and expended for the uses and purposes herein before-mentioned. And provision shall be made at the next session of the assembly for defraying the expenses of viewing, surveying, and marking the said roads; and the roads so to be marked and laid out shall be common public highways.

To be sworn.

To lay before the Assembly an account of donations and disbursements.

Expenses of viewing &c. provided for next sessions. Roads to be marked &c. shall be common public highways.

Courts of sessions, next after first of January annually, to appoint commissioners of highways, in towns and surveyors of highways.

V. *And be it further enacted*, That the justices at their general quarter sessions held for the several counties next after the first of January annually, shall appoint three fit persons to be commissioners to lay out and regulate highways in the town or parish for which they shall be so appointed. And the said justices at the same time shall appoint a number of fit persons not exceeding six nor less than three to be surveyors of the highways in each town or parish, who are to oversee, repair and keep in order the several highways within the respective towns or parishes for which they shall be so appointed, which said commissioners and surveyors shall

Said commi-

be

be sworn to the faithful discharge of their respective offices for the year ensuing before the said sessions, or before any one of the justices of the peace, within or nearest to the said town for which such commissioners or surveyors shall be so appointed, and any person being so nominated and appointed, who shall refuse to accept of such office to which he shall be so nominated and appointed, or shall neglect to be sworn as aforesaid within fourteen days next after such nomination, or having accepted shall neglect his duty, shall forfeit for every refusal or neglect, five pounds, to be recovered by bill, plaint or information in any of his Majesty's courts of record, and the forfeiture shall be applied for the repairing of the highways.

Commissioners and surveyors to be sworn.

On refusal or neglect to be sworn within 14 days or neglect of duty when sworn to forfeit £5.

VI. *And be it further enacted*, That the commissioners or the major part of them in the respective towns or parishes for which they shall be appointed commissioners are hereby empowered and authorized to regulate the roads already laid out, and if any of them shall appear inconvenient, and an alteration absolutely necessary, and the same be certified upon oath by twelve principal freeholders of the county, to be summoned by the high sheriff, his deputy or any constable in the county by virtue of a warrant to be issued by two justices of the peace for that purpose, the commissioners may, provided they all judge it absolutely necessary, alter the same and also lay out such other public highways and roads as they or the major part of them shall think most convenient, as well for travellers as for the inhabitants of each town or parish and the next adjacent towns, villages and neighbourhoods, which highways and roads so laid out shall be common public highways.

Such town commissioners, or certificate of 12 freeholders, may alter highways and lay out others.

VII. *And be it further enacted*, That if any person or persons within the said county do or shall hereafter alter, stop up, or encroach on any street, or highway, or road, that shall be laid out by the commissioners to be nominated and appointed by virtue of this act, by laying timber, wood, carts, trucks, or any things thereon, such person so offending contrary to the meaning of this act shall for every such offence forfeit the sum of forty shillings to be recovered before any one justice of the peace upon the oath of one or more credible witness or witnesses and levied by warrant directed to the constable of the town or parish where such offence shall be committed, by distraining the goods and chattels of the offenders, or in case such offender shall not be known or found, the same shall be recover'd by sale of so much of the timber or wood, and the carts, trucks, or other things incumbering or stopping the way in such road or street as aforesaid. And the said constable after public notice is given by him of the felling of such distress shall make sale thereof and out of the produce shall pay the forfeitures and charges, and return the overplus if any there be

Persons altering &c. any streets, highways or roads, by laying timber &c. thereon, to forfeit 40s.

If offenders are not known, such timber, &c. to be sold.

Constable after public notice given, to sell goods &c. to pay such forfeiture and charges and

to return over-
plus to the
owner.

Nuisances con-
tinued, liable to
same penalty.

Width of roads
left to discretion
of commission-
ers, if not more
than 8 or less
than 4 rods.

Roads &c. in
counties shall be
cleared &c. by
male inhabi-
tants from 16 to
60 years of age,
who are obliged
to work thereon
by themselves or
others.

Persons keeping
carts, &c. shall
when directed
by surveyors,
send one cart,
waggon or truck
with two oxen
or horses and an
able man, four
days every year,
to work at high-
ways, &c.
For not attend-
ing or neglect of
duty to forfeit
10l.
Other inhabi-
tants, not being
hired servants
for a year, to
work six days, or
forfeit 3l. for
each day's ne-
glect.

Surveyors to
keep a list of
owners of wag-
gons, &c. and
of others, and
an account of
the time they
have worked.

Person neglect-
ing to work with
waggon, &c. to
forfeit 1s. an
hour and others
6s.

to the owner or owners thereof, when found, which said forfeiture shall be applied by the commissioners for and towards the repairing the public roads or highways within the town or parish where the same may arise. And if the said nuisance shall continue the same shall be deemed a new offence and shall be prosecuted and liable to the penalty aforesaid.

VIII. *And be it further enacted*, That the width of all roads hereafter to be laid out shall be left to the discretion of the commissioners for the time being of the town or parish where such roads may be laid out, so that they do not exceed in breadth eight rods, and are not less than four rods.

IX. *And be it further enacted*, That the roads and highways within each county shall be cleared, repaired and maintained by the inhabitants thereof. And that every male inhabitant between the age of sixteen years and sixty years, shall either in person or by an able, sufficient man in his room, be oblig'd to work upon the highways.

X. *And be it further enacted*, That every person within each town, keeping any cart, team, or truck, shall send on every day appointed by the said surveyors of highways, one cart, or waggon; or truck, with two oxen, or two horses, and one able man to drive the same, for four days in every year, to work on the highway roads, streets or bridges, allowing ten hours to each day's work, and such person not attending, or neglecting to perform the said duty, shall forfeit for every day's neglect, ten shillings, and that every other inhabitant not being an hired servant for a year, shall on every day appointed as aforesaid, either by himself or other sufficient person to be hired by him, provided with such necessary implements as shall be directed by the said surveyor, work for the space of six days in every year, allowing ten hours to each day's work on the said highway roads, streets or bridges, within the town or parish where they respectively dwell, and such persons not attending or neglecting to perform the said duty shall forfeit three shillings for every day's neglect, which forfeitures shall be recovered before any one justice of the peace in manner and to the uses before-mentioned.

XI. *And be it further enacted*, That the said surveyors of the highways shall make out and keep a list of all such persons who are owners of waggons, carts, or trucks, as also of every other inhabitant within their respective towns or parishes, and shall keep an exact account of the time that every such person shall have worked, and for every hour which any person shall neglect to work with his waggon, cart or truck as aforesaid, he shall forfeit and pay the sum of one shilling to the said surveyors, and for every hour every other inhabitant shall neglect to work, he shall forfeit and

pay

pay the sum of six-pence, and in case such forfeitures shall not be paid within eight days after such default, they shall be recovered before any one justice of the peace and applied in manner before-mentioned.

XII. *And be it further enacted*, That the said surveyors of the highways shall and are hereby empowered in the fittest and most seasonable time, between the first day of April and the first of November yearly (seed time and harvest only excepted) to summon the inhabitants contained in their list respectively, giving them at least six days notice of the time and place where they are to be employed, and shall there oversee and order the persons so summoned to labour in making, mending or repairing, the highways, roads, streets, and bridges, in the most useful manner, during the number of days appointed by this act for each person to labour, and the surveyors of highways shall themselves be excused from any other service on the highways than the summoning, ordering and directing thereof. And when any surveyor of highways shall judge the labour of men more useful and necessary than the use of carts, waggons, or trucks, the persons who by this act are to furnish carts, waggons, or trucks, shall be obliged under the like penalty to send two labouring men instead thereof, furnish'd with necessary implements as aforesaid. *Provided*, That upon application to two of his Majesty's justices of the peace the said justices shall and may in their discretion lessen the number of days labour to be performed by such men as cannot without detriment to their families attend the same. And all persons keeping carts, waggons, or trucks, who by being sixty years old or upwards, are exempted from labouring themselves on the said highways or roads, shall nevertheless send their carts, waggons, or trucks, as aforesaid, to assist in making or repairing the same.

Surveyors to summon persons to work at highways, &c. between first of April and first of November.
Six days notice.

Surveyors exempt from other service than summoning, &c. Persons liable to furnish waggons, &c. to send two labourers instead thereof, if required.

Two justices may lessen the number of days in cases of necessity.

Persons 60 years old not exempt from sending carts, &c.

XIII. *And be it further enacted*, That the said commissioners for the time being, shall and may as they shall judge proper and necessary, divide their respective towns or parishes into districts, which they shall allot to the said surveyors in such town or parish as they shall judge most convenient the highways, roads, streets, and bridges in which district such surveyors shall respectively oversee, repair and keep in order. And every surveyor in each district shall on or before the first Tuesday in December in every year, deliver under oath to one or more of the commissioners of the town or parish to which he doth belong, an account of the labour done on the highways within his district, and shall take an oath before the said commissioner, who is hereby empowered to administer the same in the words following, viz. I A. B. Do swear, that this account now delivered by me contains the names of all the persons within my district which by law are oblig'd to work

Commissioners may divide towns into districts, & allot the same to the surveyors.

Surveyors, on or before first Tuesday in December annually, to deliver to commissioners an account of labour done. Commissioners empowered to swear surveyors. Oath.

work on highways that each person therein named has worked agreeable to law six days since the first day of April last, or four days with his cart, waggon, or truck, to the amount of ten hours in each day, or I have laid out or disposed of agreeable to law, the fines of such persons as have not work'd and the monies by me received for excusing persons from working according to the best of my knowledge and belief. *So help me God.*" And if any surveyor shall neglect or refuse to deliver an account, or take the oath hereby required, he shall forfeit the sum of five pounds, to be recovered before any one justice of the peace, and applied in manner herein before-mentioned. *Provided nevertheless,* That if any inhabitant who by this act is obliged to work on highways shall remove into any surveyor's district, or any person shall remove out after the said surveyor has work'd part of his time, the said surveyor shall make such exception in his account and oath, according to the number of days every such person did work.

Surveyors refusing to deliver an account or to take the oath shall forfeit £5.

Surveyors to make exception in their oath, according to number of days worked by persons removing to or from their districts.

Trees in highways to belong to owners of the land, but to be used if necessary.

XIV. *And be it further enacted,* That all trees that stand in any highway which shall be laid out thro' any person's land shall belong to the owner or owners thereof, but the said owner shall not hinder the public from making use of so much timber, which is standing or lying on the road as will make and repair the same, the principal timber trees to be reserved for the owner, unless absolutely necessary for the road.

Commissioners to make entries in writing of highways, &c. and return the same to the clerk of the peace.

XV. *And be it further enacted,* That the commissioners for each town or parish for which they shall be appointed, shall from time to time enter in writing all the highways or roads laid out or altered, and sign the same, and make a return thereof into the office of the clerk of the peace, for the county in which such highways or roads are laid out, to be by such clerk entered in a book kept for that purpose, and whatsoever the said commissioners shall do according to the powers given them in this act, being so entered, shall be valid and good to all intents and purposes whatsoever.

Commissioners may order surveyors to work on any road.

XVI. *And be it further enacted,* That the said commissioners for any town or parish, or the major part of them, for the time being may order any surveyor, in such town or parish, to work upon any road or highway within his district that they shall think necessary, the number of days he is oblig'd to work by this act, and such surveyor shall within eight days thereafter, warn and set to work the persons within his district who are oblig'd to work upon high-ways, upon that part of the road or highway which he shall be so ordered to amend or lay out. And if any surveyor shall neglect or refuse to warn and set to work the persons aforesaid of his district, to lay out or amend such road or highway as he shall be so ordered to lay out or amend, he shall for every such

Surveyors shall within 8 days warn and set persons to work on the roads so ordered.

Surveyors neglecting or refusing to warn and set to work the persons of

neglect

neglect or refusal forfeit forty shillings, to be recovered as aforesaid, before any one of his Majesty's justices of the peace within the county and applied by such commissioners to the purposes herein before-mentioned.

their districts on the roads so ordered shall forfeit 40s.

XVII. And whereas it may be necessary to lay out private roads within the several counties in this province. *Be it further enacted*, That upon application to the commissioners appointed as aforesaid for any town or parish for a private road, such commissioners shall view the same, and if they are of opinion such road is absolutely necessary, and twelve principal freeholders to be summoned in manner as aforesaid, under oath, shall be of the same opinion, the said commissioners are hereby empowered to lay out such road: *Provided*, That they shall not lay out such road through any persons land without the consent of the owner or owners thereof, or agreeing with and paying to him or them the value of the land so to be laid out into such highway with such damages as he or they may sustain by said road, and in case they cannot agree then the true value shall be set and appraised by the justices of the peace issuing such warrant as aforesaid for the summoning such freeholders, and by the oath of the said freeholders so summoned, and all the expences and charges attending the said road, shall be paid by the person or persons applying for the same, and the said road when laid out shall be for the only use of the person or persons who shall pay for the same, his and their heirs and assigns, but for no other use and purpose than that of a road. *Provided always*, That the owner or owners of the land through which such private road may be laid, shall not be prevented from making use of such road if he shall signify his intention of making use of the same at the time when the jury are to ascertain the value of the land and the damages by means of laying out such road. *Provided also*, That no such private road shall be laid out more than two rods wide, against the consent of the owner or owners of the lands thro' which the same is to pass.

Commissioners may lay out private roads, if all found necessary by 12 freeholders.

Such private road not to be laid through any person's land without consent of owner or paying for the land taken into said road and damage.

If value of land &c. cannot be agreed on, the same to be set by the justices issuing warrant to summon such freeholders and by their oath and expences, &c. to be paid by person applying for the road and to be wholly for their use as a road.

Owners of land where private roads are laid may use such roads if they signify their intention to the jury.

No private road to be more than two rods wide without consent of the owner of the land where laid.

XVIII. *And be it further enacted*, That if any public road hereafter to be laid out by virtue of this act, shall pass thro' any improved lands where the damage to the owner or owners of such lands by means of such road shall be greater than the allowance made for roads in the grants of such lands, which shall be ascertained by a jury to be summoned in manner first herein before mentioned; or if such road shall occasion the removal of any buildings, then and in such cases the damage to the owner or owners of such lands shall be ascertained by such juries, and shall be paid as other contingent charges of the county are paid.

Damages occasioned by public roads passing thro' improved lands, exceeding the allowance in the grants or by the removal of buildings, to be ascertained by a jury and paid as other contingent county charges.

XIX. *And be it further enacted*, That in such of the counties in this province, where the court of general quarter sessions of the peace has been already held, - since the first day of January in

In counties where court of sessions has been held since first of January in this

year or before publication of this act, the justices may hold special sessions to appoint commissioners, &c.

this year, or shall be held before the publication of this act, it shall and may be lawful for the justices of the sessions in such counties as soon as conveniently may be after the publication of this act, to hold a special sessions and to appoint commissioners and surveyors for the towns or parishes in their respective counties, for the purposes herein before-mentioned, to serve for the present year and no longer, which commissioners and surveyors shall have all the powers and authorities and be subject to the same regulations, rules, restrictions, penalties and forfeitures to all intents and purposes as if they had been appointed at the stated session, agreeable to the directions of this act.

CAP. XXXIII

An ACT for regulating and facilitating the NAVIGATION of the RIVER SAINT JOHN, and other RIVERS in this PROVINCE.

Preamble.

WHEREAS the navigation of the river Saint John, and other rivers in this province, and particularly in those parts thereof where from the rapids, and for other causes, it is often found necessary to tow small vessels, boats, and rafts of lumber, along the sides, and near the shores of said rivers, is often obstructed by felling trees, standing on the banks of said rivers, and by casting and leaving the same across said banks; partly on the banks, and partly in said rivers, and by logs, and other heavy bodies being deposited and lodged by the freshes and otherwise, on said banks, and on the shores of said rivers.

Commissioners and surveyors of roads to be surveyors of rivers, and empowered to clear rivers, &c. of incumbrances, &c.

II. *Be it enacted by the Governor, Council and Assembly*, That the commissioners and surveyors of roads that shall be annually appointed or chosen in the several towns or parishes, in the respective counties in this province, shall be surveyors of rivers, who shall take care that all rivers, and the banks and shores thereof, within the respective districts assigned them, be cleared of all such incumbrances and obstructions to the navigation thereof, that they may be safe and convenient for the aforesaid purposes of passing up and down the same, with small vessels, boats and rafts of lumber, in manner as aforesaid, and the surveyors are hereby empowered to cut down, dig up and remove all sorts of trees, bushes, or other thing or things, that may any way straiten, hurt, hinder, incommode, impede, or obstruct the navigation of said rivers with small vessels, boats, or rafts of lumber, by towing the same or otherwise; and to warn all labourers, owners of carriages, teams and boats, or other things fit and necessary to be employed for the above purposes.

To warn labourers, &c.

III.

III. *And be it further enacted,* That if any person or persons shall hereafter fell any tree or trees standing on the banks of said rivers, and cast and leave the same across said banks, or shall cut down and leave on said banks, any log or logs, or other heavy bodies, such person or persons, shall for each tree, log, or other heavy body felled, cut down, or left on, or across said banks, in manner aforesaid, forfeit and pay a fine or penalty of twenty shillings, to be recovered by complaint to a justice of the peace, as in the case of refusal to labour on the highways, and appropriated for the purpose of clearing said rivers, by the surveyors within whose district the offence shall be committed. And the said surveyors are hereby authorized to command the assistance of the inhabitants of the parish for the purposes aforesaid, in like manner as for working on the highways, and the work so done by each person shall be considered and returned by said surveyor and allowed for, as so much work done on the highways.

Persons felling trees, &c. on banks of rivers to forfeit and pay for each tree, &c.

Surveyors to command assistance of inhabitants and work allowed as in case of highways.

CAP. XXXIV.

An ACT for securing the NAVIGATION of the RIVER MAGGAUGAUDAVICK.

WHEREAS the security of the free navigation of the river Maggaugaudavick through its extensive communications, must be highly conducive to the settlement thereof, and greatly tend to the encouragement of the lumber trade, at present the most important branch of commerce in the province.

Preamble.

II. *Be it enacted by the Governor, Council and Assembly,* That no person or persons shall raise a dam or throw a boom across the main river Maggaugaudavick, and any person or persons so offending shall forfeit the sum of twenty pounds, the half of which sum shall be for the informer and the other half for the poor of the township where the offence shall be committed, to be recovered by bill, plaint or information, in any of his Majesty's courts of record within this province.

Persons raising dams, &c. across the river Maggaugaudavick to forfeit £20.

III. *Provided always,* That it shall and may be lawful to throw a boom or booms across said river at or below the carrying-place or portage, immediately above the first falls of said river, which falls are next adjoining to the salt water, for the purpose of stopping masts, spars, rafts or other lumber to be hauled over the said portage where the height and rapidity of the stream renders the further conveyance of them by water unsafe.

Booms may be thrown across said river at or below the carrying-place above the first falls, and by masts, &c.

IV. *And be it enacted,* That any person or persons who may think it expedient to erect a mill or mills, upon said river Maggaugaudavick,

Persons erecting mills upon said carrying-place,

may raise dams
half across the
river.

gangaudavick, in any part thereof above the carrying-place or portage before-mentioned, shall have a power or privilege to erect a dam or dams, or to lay a boom or booms which shall not extend more than half way across said main river, the half distance to be estimated in the drought of summer or in the season when the water of this river shall be deemed at the lowest.

Dams &c. may
be made across
the river above
the grand forks,
leaving fairer-
ways for boats,
&c.

V. *Provided*, That above the grand forks, supposed about twenty-seven miles from the first falls, any person may have permission to throw a dam or boom across the river, provided there is left in said dam or booms, sufficient sluiceway or passage for conveying boats, rafts of boards, or other lumber through the same. And every person convicted of offending herein, on trial by indictment for a public nuisance, at the court of sessions held for the county, shall be fined at the discretion of the said court, not exceeding twenty pounds, who are hereby empowered on such conviction, to order the said nuisance to be abated.

Two justices
may on view or
der such booms
removed.

VI. *And be it enacted*, That any two of his Majesty's justices of the peace upon their own view or upon the oath of two or more credible witnesses, have power, and they are hereby directed to order any such boom or booms to be removed.

CAP. XXXV.

An ACT to prevent the malicious killing or maiming of CATTLE.

Be it enacted by the Governor, Council and Assembly,

Persons mali-
ciously killing
horses, &c. shall
forfeit treble
damages to the
owner.

THAT if any person or persons shall maliciously, unlawfully and willingly kill, maim, wound or otherwise hurt any horses, neat cattle, swine, sheep or other cattle, every such offender or offenders shall forfeit and pay unto the party grieved, treble the damages which he or they shall sustain, to be recovered by action of trespass, or upon the case in any of his Majesty's courts of record in this province.

CAP. XXXVI.

An ACT for regulating Inn-holders, Tavern-keepers, and Retailers of Spirituous Liquors.

I. Be it enacted by the Governor, Council and Assembly,

Retailers &c.
selling wine, &c.
on trust to sel-

THAT from and after the publication hereof, no retailer, inn-holder, tavern or ale-house keeper, who shall sell
upon

upon trust or credit, any wine, strong beer, ale, brandy, rum or other spirituous liquors mixt or unmixt, to any soldier, sailor, servant, or other person whatsoever, to the amount of any sum exceeding the sum of five shillings, shall have any remedy to recover the same either at law, or in equity, against any of the persons aforesaid their executors or administrators.

diers, &c. for more than 5s. without remedy.

II. *And be it further enacted,* That in case any soldier, sailor, servant, apprentice, bound servant, or other person whatsoever, shall leave any pawn or pledge as a security for the payment of any sum exceeding five shillings contracted in such manner, such soldier, sailor, servant, apprentice, bound servant, or other person whatsoever, or the masters or mistresses of such servant, apprentice or bound servant, may complain to any justice of the peace, where such retailer, inn-holder, tavern, or ale-house keeper, or any other person whatsoever receiving such pawns or pledges usually resides; that such pawn or pledge is detained from him or her by such retailer, inn-holder, tavern or ale-house keeper, or any other person whatsoever, and having made proof thereof by the oath of one or more credible witnesses, or witnesses, such justice of the peace is required by warrant under his hand and seal to compel such retailer, inn-holder, tavern or ale-house keeper or other person whatsoever, by distress and sale of his goods to restore the aforesaid pawn or pledge to the party complaining or to make him or her satisfaction for the loss or abuse thereof and shall further be subject to a fine not exceeding five pounds for the use of the poor of the town or parish where such offence shall be committed.

Pawns &c. left for securing payment of any sum exceeding 5s. contracted as aforesaid, shall be restored by order of a justice and the offenders subject to a fine not exceeding 4s.

III. *And be it further enacted,* That no retailer or person whatsoever shall harbour, or suffer any apprentice or servant whatsoever, to sit drinking in his or her house, nor sell or give him, her or them, nor suffer to be sold or given him, her or them, any of the liquors aforesaid, without special order or allowance of their respective masters or mistresses on pain of forfeiting the sum of ten shillings for every such offence, together with the charges of prosecution to be recovered, upon conviction on the oath of one credible witness before any one of his Majesty's justices of the peace within the county where the offence shall be committed, or such other proof as shall be to the satisfaction of such justice, and to be levied by warrant of distress and sale of the offender's goods and chattels, under the hand and seal of the said justice, and for want of sufficient distress said justice shall and may commit such offender to his Majesty's gaol, there to remain for the space of one month, or until he shall have paid and satisfied the same. And such sum so levied shall, by the said justice be paid into the hands of the overseers of the poor of the town or parish where the offence shall be committed, to be by them applied to the use of the poor of such town or parish.

Retailers &c. harbouring or suffering apprentices to sit drinking in their houses or selling them spirituous liquors without order &c. shall forfeit 10s. for each offence.

This act not to extend to travellers, &c.

IV. *Provided always*, And nothing herein contained shall extend to debar any retailer, inn-holder, tavern or ale-house keeper, from furnishing any traveller, or boarder in his family with necessary refreshments on credit.

CAP. XXXVII.

An ACT for REGULATING SERVANTS.

Preamble.

WHEREAS damage and inconvenience may arise from apprentices and indented servants leaving the service of their masters without a proper discharge.

Indented servants or apprentices shall, at the expiration of their term of service, receive a discharge.

II. *Be it enacted by the Governor, Council and Assembly*, That from and after the publication of this act, all servants or apprentices bound by indenture, shall at the expiration of the term for which they are engaged, require and receive from their master or mistress a discharge or certificate of such servants having served his or her time.

Persons hiring or harbouring servants or apprentices, not producing a discharge, shall forfeit £5.

III. And if any person shall knowingly hire or harbour any indented servant or apprentice till he or she shall produce such certificate or discharge, such persons so offending and being thereof convicted before the general session of the peace, shall forfeit and pay five pounds to be levied by distress and sale of the offender's goods and chattels, by warrant from such general sessions, one half of which shall be to the prosecutor, and the other half for the benefit of the county where the same shall be recovered.

Indented servants and apprentices absenting themselves shall make satisfaction by service.

IV. And all indented servants and apprentices as aforesaid, who shall absent themselves from their service, shall be liable to make satisfaction by service after the time of their indenture is expired, double the time of service so neglected, and if their absence was in seed time or harvest, or the charge of recovering them be extraordinary, the court before whom complaint is made, shall adjudge a longer time of service proportionable to the damage the master shall make it appear he has sustained.

Justices of the peace may give discharges, where masters unreasonably refuse.

V. And in case any person shall refuse his or her servant a certificate or discharge as aforesaid, such servant may apply to one of his Majesty's justices of the peace in the county where said master or mistress does reside, who shall give notice to said master or mistress, and require the reasons for such refusal, and in case no regard is paid to such notice within five days, or the justice by a reply shall find no sufficient cause for such refusal, he shall without any fee, give such servant a certificate to that purpose, which shall be a sufficient discharge from said indenture. And

if

if any person shall be convicted of making use of a false certificate upon oath before any two of his Majesty's justices of the peace, he shall be publicly whip'd not exceeding thirty stripes at the discretion of said justices.

Persons making use of false certificates shall be publicly whip'd.

VI. *And be it further enacted,* That before any indenture is finally concluded, or assigned over, the parties shall go before one of his Majesty's justices of the peace, who shall examine whether the apprentice or servant has any just objection to such indenture or assignment thereof, and if he has not, shall give a certificate on the indenture accordingly.

Before indentures are concluded or assigned, parties to go before a justice.

VII. *And be it further enacted,* That no master of any ship or vessel shall receive, harbour, or conceal, on board, any indented servant or apprentice, on pain of forfeiting ten pounds for every such offence, to be recovered and applied as aforesaid.

Masters of vessels receiving, harbouring or concealing servants, &c. to forfeit £10.

VIII. *And be it further enacted,* That every master or mistress shall provide for his or her servant or apprentice according to the full tenor of their agreement.

Masters shall provide for servants.

IX. And every servant or apprentice having just cause of complaint for the non-performance of such agreement, or for hard or cruel usage, may and shall on application to any two of his Majesty's justices of the peace, be heard concerning the same, and if said justices shall find sufficient cause of complaint, they are hereby empowered and required to make an order for the relief of said servant or apprentice, by a discharge from their service or otherwise as they may see fit.

Two justices on complaint of servants, may order relief by discharge or otherwise.

X. And if either party shall not be satisfied with the order of said justices, appeal may be had to the next general sessions of the peace where the matter shall be finally determined.

Party not satisfied may appeal to court of sessions.

XI. *And be it further enacted,* That it shall not be lawful for any merchant, trader, tavern-keeper or other person whatsoever, to sell upon credit to any indented servant or apprentice, and all actions commenced against such persons, shall and are hereby declared to be void and of no effect.

Merchants, &c. not to sell on credit to servants or apprentices.

CAP. XXXVIII.

An ACT to enable the JUSTICES of the PEACE, of the several counties in this province for the time being, to receive, for public uses, GRANTS of LANDS lying in their respective counties, and to regulate the COMMONS belonging to the several townships or parishes within the same.

Preamble.

WHEREAS there are several tracts of land reserved in the different counties of this province for public uses, and whereas it is necessary that persons be empowered to receive grants as well of the said lands as of such other lands as may hereafter be so reserved or granted, that the intent for which they have been or shall be so reserved or granted, may be carried into execution.

Justices of the peace authorized to receive grants of lands in trust for public uses.

I. *Be it enacted by the Governor, Council and Assembly*, That the justices of the peace in each county shall be and are hereby authorized and empowered, by the stile and title of the justices of the peace of the county of _____ for the time being, to accept, receive and retain in trust for the public uses therein specified, any grant or grants of lands lying in the said county, and such trust to execute: and all grants so as aforesaid made, are hereby declared to be good and valid in law.

May bring actions concerning such lands and may lease the same.

II. *And be it further enacted*, That the said justices, by the stile and title aforesaid, shall be able, and in law capable to bring and maintain any action of trespass or ejection of, or concerning any the lands so granted to them in trust as aforesaid. And to lease for a term of years any such lands so granted to them, or heretofore given to public uses, to the best advantage, except the use is expressly given in such grant to some particular person or persons or body corporate.

Justices in their sessions to affix and settle regulations for the inhabitants of towns respecting commons.

III. *And be it also enacted*, That the justices in their several general sessions of the peace, to be held for the several counties in this province, shall from time to time affix and settle such regulations as they may think most proper and convenient to be observed and followed by the inhabitants in the several townships within such county, in regard to the common belonging to the same, and such regulations so made, affixed and settled, shall be and are hereby declared to be the stated rules to be kept, observed and followed, by the inhabitants of each respective township; and that if any person shall transgress any such rules and regulations

Persons transgressing or refusing

tions

tions so to be settled and affixed, or shall neglect or refuse to obey the same, such person shall forfeit and pay a fine not exceeding forty shillings for every such offence, and in case such offender shall refuse or neglect to pay the fine, then it shall and may be lawful for any two of his Majesty's justices of the peace, to grant a warrant of distress for levying the same in the usual manner, one half to be to the person complaining, and the other half for the use of the poor of the township where the offence shall be committed, and in default of such distress, to commit such offender for any space not exceeding ten days.

ing to obey such regulations to be fined not exceeding 40s.

CAP. XXXIX.

An ACT for the PRESERVATION of MOOSE.

WHEREAS the wanton destruction of moose has been carried to an alarming degree by persons who kill the same in great numbers, taking only the skins and leaving the carcases in the woods; and as such proceedings must be extremely detrimental and would if not timely prevented go near to extirpate that useful animal, on which the remote settlers in this province in a great measure depend for their subsistence, for remedy whereof and to preserve to the inhabitants of this province so valuable a support.

Preamble.

I. *Be it enacted by the Governor, Council and Assembly,* That if any person or persons, after the first day of March next, shall kill or destroy any moose, taking away only the skin or skins, leaving in the woods the carcases or carcase or a quarter thereof, until the same become putrid and unfit for food, or shall kill moose in such quantities and at such distances from the several settlements of this province that it shall appear evident that such person or persons had no probable means to bring the meat either to market or to convey it home, for their own or the sustenance of their neighbours.

Persons killing or destroying moose, taking the skins and leaving the carcases in the woods to become putrid or at unreasonable distances from settlements shall forfeit 40s. and the skins.

Such person or persons shall for every such offence forfeit the sum of forty shillings for every such moose so killed, as also all the skin or skins of such moose wantonly and illegally destroyed, contrary to the true intent and meaning of this act, the one half of which forfeitures shall be to him or them who shall inform and sue for the same before any one of his Majesty's justices of the peace in such county where the offence shall have been committed, who is hereby empowered to hear and determine the same upon the oath of one or more credible witness or witnesses; and the other half to the poor of the county where the offence shall have been committed; such sum to be levied by warrant of distress

Prosecution
within 4 months

This act not to
extend to persons
killing moose for
their support on
journeys.

Continuance of
the act.

and sale of the offender's goods; and in default of such distress the offender to be committed to the county gaol for two calendar months, or until payment be made. *Provided*, That any offence committed against this act shall be sued for within four calendar months after the same shall have been committed. *Provided also*, That nothing contained in this act shall be construed to extend to persons travelling upon their lawful occasions, and not for the purpose of hunting thro' uninhabited parts of this province, and who may have occasion to kill moose merely for support on their journey. *Provided also*, That this act shall continue and be in force for two years, from the said first day of March, and no longer.

CAPXL.

An ACT to oblige ABSENT PROPRIETORS to pay a proportion of any public charge, and to repair highways.

Preamble.

WHEREAS there are many persons who own lands in counties where they do not reside, whose lands are enhanced in their value, by the labor of those who are present.

Non-resident
proprietors of
land &c. to pay
their proportion
of charges assess-
ed thereon, and
of labor on high-
ways.

I. *Be it enacted by the Governor, Council and Assembly*, That each and every such proprietor or proprietors of any lands, tenements or hereditaments, within this province, shall pay or cause to be paid, his, her, or their just quota or proportion of all charges hereafter to be assessed on the lands within such county, and upon failure thereof, the same to be recovered, as may be directed by the laws empowering such assessment, and each and every non-resident proprietor or proprietors of such lands, tenements or hereditaments, shall be obliged to do and perform his, her or their parts or proportion of labor on the highways, streets, roads and bridges, within their respective limits, or pay for the same as delinquent inhabitants.

Such delinquent
proprietors being
absent or not ap-
pearing within 6
months after
public notice in
the Royal Gaz-
ette; & justices
may let out their
lands, or, if ne-
cessary, may or-
der the sheriff to
sell the same to
pay such charges
and costs.

II. *Be it also enacted*, That if any proprietor or proprietors of any real estate as aforesaid, shall be absent, and no person appear in their behalf within six months after public notice being given in the Royal Gazette, to pay his, her or their quota or proportion of any assessment as aforesaid, made by virtue of any law of this province, or of labor on highways, streets, roads and bridges as aforesaid, and not having any goods and chattels to answer his, her or their quota or proportion of any charge made as aforesaid, it shall and may be lawful for any three of his Majesty's justices of the peace, *quorum unus*, who are hereby empowered to let out such part of the delinquent's lands as may be sufficient to pay, by the

the produce thereof, any such quota, proportion, or charge so due, and in case the lands of such absentees, should not for the present produce sufficient to pay the quota of his, her or their proportion of such assessment, or no one appear to hire the same, that then it shall and may be lawful for such justices, by warrant under their hands and seals, to order the sheriff or his deputy, to sell at public auction to the highest bidder, so much of the lands of such delinquent, as may be sufficient to pay the quota, proportion or charge as aforesaid, with the costs and charges attending the same. And the sheriff or his deputy is hereby empowered and directed to execute a deed to the purchaser or purchasers thereof, their heirs and assigns, and deliver seizin and possession of the same to such purchaser.

Sheriff to execute deeds to the purchasers.

CAP. XLII.

An ACT to enable the treasurers of the respective counties in this province to recover from such person or persons, as have heretofore received any MONIES or are otherwise indebted for the sale of MILL PRIVILEGES and PUBLIC LOTS.

WHEREAS divers persons in this province have received sums of money, and are otherwise indebted for the sale of mill privileges and public lots, sold by order of the Governor or of *Nova-Scotia*, and have not yet accounted to any person for the same.

Preamble.

I. *Be it enacted by the Governor, Council and Assembly,* That all and every person or persons, who have or hath any public monies in his or their hands, or are otherwise indebted by such sales aforesaid, shall and may, and they are hereby required to pay the same into the hands of the respective county treasurers of such county where such privileges and lots were sold, and the receipt of such treasurer shall be a full and sufficient acquittance and discharge to him or them for the same. And if any person or persons when thereunto required by such treasurer shall refuse or neglect to account and pay to such treasurer all and every sum or sums which he or they shall have, in his or their hands, or are otherwise indebted as aforesaid, such treasurer shall and may sue for and recover the same in any court of record in this province, having competent jurisdiction, by action of debt, bill, plaint or information, and upon judgment given for the plaintiff, he shall and may recover treble costs of suit.

Persons having public monies or indebted for mill privileges, &c. to pay the same to county treasurers.

Treasurers may sue for such monies &c. on refusal to pay.

II.

Such monies to be appropriated by justices in sessions.

II. *And be it further enacted*, That all such monies so received or recovered by any such treasurer, shall be disposed of, and appropriated by the justices of the peace at their general sessions in the respective county, by their order or orders, for the uses and purposes which such privileges, and public lots were declaredly sold for, at the time of such sale, and should there be any overplus after such purposes are answered, the same is to remain in the hands of such treasurer and be considered as part of the public stock of such county. *Provided*, That any person or persons conceiving himself or themselves aggrieved by such order or orders, shall and may within six months from the date thereof, bring a writ of *certiorari*, in the supreme court, to remove the same order or orders, which court is hereby authorized to hear and finally determine the same.

Persons aggrieved may bring a writ of *certiorari* in supreme court

Persons having demands to be paid on certificate of court of sessions.

III. *And be it further enacted*, That all persons who have any demands against any town or district, for the discharge of which the sales aforesaid are declaredly made, are hereby required to deliver in a particular account of the same to the county treasurer, who is hereby directed to receive such accounts, and lay the same before the justices of the peace at their general sessions in the respective county, who are hereby authorized to examine and adjust said accounts and certify the ballance due on each, that the same may be paid by the treasurer as soon as he is enabled by the recovery of the monies aforesaid, and no *certiorari* is brought as aforesaid.

CAP. XLII.

An ACT for assessing, collecting and levying COUNTY RATES.

I. *Be it enacted by the Governor, Council and Assembly,*

Justices in general or special sessions may agree on sums of money for building goals and court-houses & charge the same on the towns by warrants to assessors.

THAT the justices of the peace in the several counties in this province, where no goals or court-houses are already erected and finish'd in and for said counties, shall at their general or special sessions of the peace, have full power and authority to conclude and agree upon such sum or sums of money as upon examination of able and sufficient workmen shall be thought necessary for the building and finishing a public goal and a public court-house, in and for such counties respectively, and by warrant under their hands and seals, or under the hands and seals of the greater number of them, to be directed to the assessors of the several and respective towns by equal proportion to distribute and charge the sum or sums of money to be levied for the uses aforesaid upon the several towns or parishes in such counties respectively; and the assessors for the said towns or parishes respectively, shall apportion

Such sums to be apportioned by assessors.

apportion the quota of the said sum or sums of money so to be levied upon the respective towns or parishes, to be paid by the several and respective inhabitants of the said towns or parishes as they in their discretion shall think just and reasonable, and the said assessors are hereby authorized and empowered to direct their precepts with a copy of such assessment or apportionment of the different sums so to be paid by the respective inhabitants, to the constables of the respective towns or parishes, for which such assessors are appointed, which constables are hereby authorized to levy and collect the same accordingly. *Provided always*, That it shall and may be lawful for any inhabitant of any town in case he shall so chuse, instead of paying the sum so to be assessed upon him, to contribute a proportion of labor at and after the rate of two shillings and six pence per day, allowing ten hours to each days work under the direction of such person as the said justices shall agree and contract with for the building such goal and court house who is hereby authorized to notify to the respective constables where such labor will be required, which labor so contributed, shall be a full discharge of the sums so assessed at and after the rate aforesaid.

Assessors to direct precepts to constables with copies of assessments, who are to collect the same.

Inhabitants may pay in labor.

II. *And be it further enacted*, That when any goal or court house or any public bridges or other works are to be repaired at the expence of any county in this province the justices of the peace in the several counties, shall at their general sessions of the peace upon the presentment of the grand jury at such sessions of the want of such reparation of the gaol, court house and bridges or other works, have full power and authority, if they think proper and convenient, from time to time to make rates and assessments for such sum or sums of money as they in their discretion shall think sufficient to answer all and every the purposes aforesaid in such proportions as is herein before directed to be in like manner assessed, levied and collected, and the said justices of the peace at their respective general sessions are hereby authorized and empowered to covenant, contract and agree with any person or persons for the well and sufficient building, finishing or repairing such goals, court houses, bridges or other works as aforesaid.

Justices in general sessions may, on presentment of grand jury, make rates, &c. for repairing goals, &c.

And may agree with persons for building, &c. such goals, &c.

III. *And be it further enacted*, That if any person or persons who shall not have worked as aforesaid, shall refuse or neglect to pay his or their assessment, by the space of ten days after demand of such assessment by the constable appointed to collect the same or shall convey away his or their goods or estate whereby the sum or sums of money so assessed cannot be levied, then it shall and may be lawful to and for the said constables by warrant from any one of the justices of the peace in the county to levy the sum so assessed by distress and sale of the goods and chattels of such persons so neglecting or refusing to pay, who shall not have work'd as

Persons not having worked as aforesaid, and refusing or neglecting to pay their assessments liable to distress and sale of their goods.

aforeſaid, and the goods and chattels then and there found and the diſtreſs ſo taken to keep for the ſpace of ten days, at the coſt and charges of the owner thereof, and if the ſaid owner do not pay the ſum or ſums of money ſo rated or aſſeſſed, within the ſpace of the ſaid ten days, then the ſaid diſtreſs to be appraiſed by two or more of the inhabitants where the ſame ſhall be taken, or other ſufficient perſons, and to be ſold by the ſaid conſtable for payment of the ſaid money, and the overplus of ſuch ſale (if any be) over and above the ſum ſo aſſeſſed and charges of taking and keeping the diſtreſs, to be immediately returned to the owner thereof, and the reſpective conſtables are hereby required upon demand to pay ſuch ſum or ſums of money as they ſhall have ſo received or collected into the hands of ſuch perſon (being reſident in ſuch county where ſuch rates ſhall be reſpectively made) whom the ſaid juſtices at their general ſeſſions, or the greater part of them then and there aſſembled, appoint to be the treaſurer of the county (which treaſurer they are hereby authorized and empowered to nominate and appoint) ſuch treaſurer firſt giving ſecurity in ſuch ſum as ſhall be approved of by the ſaid juſtices at ſuch general ſeſſions, or the greater part of them then and there aſſembled to be accountable for the ſeveral and reſpective ſums of money which ſhall be reſpectively paid to them, in purſuance of this or any other act or law of this province, and to pay ſuch ſum or ſums of money as ſhall be ordered to be paid by the juſtices at their general ſeſſions, and for the due and faithful execution of the truſt reſoſed in him, and all and every ſuch ſum or ſums of money as ſhall be paid into his hands by virtue of this or any other act or law of this province, ſhall be deemed and taken to be the public ſtock, and the ſaid treaſurer ſhall and is hereby required to pay ſo much of the money in his hands to ſuch perſon and perſons as the ſaid juſtices at their general ſeſſions or the greater part of them then and there aſſembled, ſhall by their orders from time to time direct and appoint for the uſe and purpoſes of this act, and for any other uſes and purpoſes to which the public ſtock of any county is or ſhall be applicable by law.

Conſtables to pay their collections to county treaſurers.

County treaſurers to be appointed by juſtices in general ſeſſions, and to give ſecurity.

Treaſurers to pay monies as directed by juſtices in ſeſſions.

Treaſurers to keep books of entries of monies received and paid and to render an account under oath if required.

IV. *And be it further enacted*, That the ſaid reſpective treaſurers in the ſeveral counties ſhall and are hereby required to keep books of entries of the ſeveral ſums reſpectively received and paid by them, and are alſo hereby required to deliver in true and exact accounts upon oath if required (which oath the ſaid juſtices at their reſpective general ſeſſions are hereby empowered to adminiſter) of all and every the ſum and ſums of money reſpectively received and paid by them, diſtinguiſhing the particular uſes to which ſuch ſum or ſums of money have been applied, to the juſtices at every general ſeſſions reſpectively to be holden by them in the ſeveral counties, and ſhall lay before the juſtices at ſuch ſeſſions the proper vouchers for the ſame.

V. *And be it further enacted*, That the respective constables of the several towns or parishes, shall and they are hereby required to demand and levy such rates and assessments and to notify the inhabitants to work as aforesaid, in manner before directed, and shall account for the same before the said justices at their respective general sessions in the several counties if thereunto required, in like manner as the said treasurers are hereby directed to account; and in case such constables or any of them shall neglect or refuse so to demand, levy or account, then it shall and may be lawful to and for the said justices at their respective general sessions or the greater part of them, then and there assembled, to commit such constable or constables to the common goal of the county, there to remain without bail or mainprize, until he or they shall have caused such rates or assessments upon the persons who shall not have so work'd as aforesaid, to be demanded or levied, and shall have rendered a true account or accounts in the manner hereby directed, and in case it shall appear by such account or accounts that any sum or sums of money is or are remaining in his or their hands which he or they shall have received of the several persons in the town or parish for which he or they shall be respectively appointed, which ought to have been paid to the respective treasurer in order to be applied to the purposes aforesaid, and if he or they shall neglect or refuse to pay the same over into the hands of the respective treasurers or otherwise if thereunto required by order of the said justices at their respective general sessions or the greater part of them, then and there assembled, then it shall and may be lawful for the said justices at such their general sessions, or the greater part of them, then and there assembled, to commit such constable or constables to the common goal of the county, there to remain without bail or mainprize, until he or they shall have made full payment of the sum or sums of money that shall appear to be due on such account or accounts. And all the accounts and vouchers of the said treasurers and constables shall, after having been passed by the said justices at their respective general sessions be deposited with the clerk of the peace for the time being, of each county respectively, who is hereby required to keep them among the records of such county to be inspected from time to time by any of the said justices for such county as occasion shall require, without fee or reward.

Constables to demand and levy such rates, &c. and to account for the same.

Constables neglecting or refusing may be committed to goal.

Accounts, &c. to be deposited with the clerk of the peace.

VI. *And be it further enacted*, That the receipts of such respective treasurer shall be sufficient discharges to all constables, and the discharges of the said justices of the peace or the greater part of them by their orders made at their respective general sessions to such treasurer, shall be deemed and allowed as good and sufficient releases, acquittances or discharges in any court of law or equity, to all intents and purposes whatsoever.

Receipts of treasurers, good discharges to constables and discharges of justices good to treasurers.

Justices in sessions may continue and remove treasurers and allow them pay not exceeding £15 a year.

VII. *And be it further enacted*, That it shall and may be lawful to and for the said justices of the peace, at their respective general sessions, or the greater part of them then and there assembled, to continue from time to time such treasurer in his office, so long as they shall see convenient, and to remove him at their pleasure, and appoint any other person in his place, and to allow him insisting on the same such reasonable sum or sums of money for his care and pains in the execution of such trust not exceeding fifteen pounds, by the year, as they in their discretion shall think fit, which they are hereby empowered to direct the payment of, out of the monies arising by the respective rates from time to time appointed to be made.

Assessors believing their towns overrated, may appeal to courts of sessions.

VIII. *And be it further enacted*, That in case the assessors of any town or parish shall at any time have reason to believe the said town or parish is overrated such assessors may appeal to the respective justices of the peace at their next general sessions against such part of the rate only as may affect the town or parish in which they serve such office, which justices or the greater part of them, then and there assembled are hereby authorized and empowered to hear and finally determine on the same. *Provided nevertheless*, That upon such appeal such rate shall not be quashed or destroyed in regard to any other towns or parishes assessed thereby.

No new rate to be made until 3/4ths of the former rate are expended.

IX. *And be it further enacted*, That no new rate shall be made until it shall appear to the said justices at their respective general sessions or the greater part of them, then and there assembled by the accounts of their respective treasurer or otherwise, that three fourths of the money collected by virtue of the preceding rate have been expended for the uses and purposes aforesaid.

Actions shall not be commenced against persons collecting money on rates quashed on writs of certiorari.

Persons paying more than they ought, to be repaid or allowed in the next rate.

X. *And be it further enacted*, That no action or suit shall be commenced or prosecuted against any person or persons who shall be employed in collecting or receiving any money in pursuance of this act on any rate or rates which shall be quashed or discharged on any *certiorari* to be brought in the supreme court for any money to be collected or received on any such rate or rates before such writ of *certiorari* shall be brought and allowed, and that justice may be done to such persons who shall pay towards any rate which shall be quashed or discharged the several sums of money which shall appear to have been paid by them on such rate either in the whole or in part more than they ought to have paid, shall be repaid or allowed to them in the next rate or rates which shall be made in pursuance of this act as if the same had been paid on such new rate or rates.

XI. *And be it further enacted*, That no writ of *certiorari* to remove any rates made in pursuance of this act or to remove any orders or other proceeding taken or made by the said respective general sessions, touching such rates, shall be taken out or granted, but upon motion to be made some time in the term next after the time for appealing from such rates or orders is expired, and upon making it appear to the court by affidavit or otherwise, that the merits of the question upon such appeal or orders will by such removal come properly in the judgment of the said court, and that no such writ of *certiorari* shall be allowed, until sufficient security be given to the respective treasurers appointed by virtue of this act in the sum of one hundred pounds to prosecute such writ of *certiorari* with effect, and to pay the costs to be ascertained by the court to which such rates, orders or proceedings, shall be removed, in case such rates or orders shall be confirmed, nor shall any such rates, orders or proceedings be quashed or vacated for want of form only, and all charges attending such removal shall be defrayed out of that or any subsequent rate.

No writs of *certiorari* to remove orders &c. touching rates, shall be taken out but on motion in term next after time of appeal, &c.

Rates not to be quashed for want of form.

XII. *And be it further enacted*, That if any action or suit shall be commenced against any person or persons for any thing that shall be done in pursuance or by the authority of this present act, in every such case the action or suit shall be commenced within three months next after the fact committed, and not afterwards, and shall be laid and brought in the respective county in which the cause of action or suit shall arise and not elsewhere. And the defendant or defendants in such action or suit to be brought shall and may plead the general issue and give this act and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and by the authority of this act, and if it shall appear so to be done, or that such action or actions shall be brought after the time before limited for bringing the same as aforesaid, or shall be brought in any other county or place than the jury shall find for the defendant or defendants, and upon such verdict, or if the plaintiff or plaintiffs shall be non-suited or discontinued, his, her or their action or suit after the defendant or defendants hath or have appeared or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs and have the like remedy for the same as any defendant or defendants hath or have in other cases by law.

Actions to be brought within 3 months.

Defendants may give special matter in evidence under general issue.

If judgment against plaintiff, defendant shall recover treble costs.

CAP. XLIII.

An ACT to regulate and provide for the support of the POOR in this province.

I. *Be it enacted by the Governor, Council and Assembly,*

Overseers at the first general sessions annually, to lay before the justices the state &c. of the poor.

THAT the overseers of the poor to be appointed in the several towns and parishes in the respective counties in this province, and the overseers of the poor to be appointed in the city of St. John, shall at the first general sessions of the peace annually in the respective counties where such towns, parishes and city are; lay before the justices at such general sessions, the state and condition of the poor in their several districts which statement the said justices at their said sessions are hereby authorized and required to supervise, examine and allow, and thereupon shall issue their warrants to the assessors of such towns or parishes, and city respectively, for the assessing and levying the several sums so respectively allowed upon such statements as aforesaid, which sums shall be rated, assessed and collected, in such manner, at such times, and under the same regulations, restrictions, penalties and forfeitures as county charges are rated, assessed and collected by an act or law of this province entitled, "An act for assessing, collecting and levying county rates," and shall be paid into the hands of the overseers of the town or parish where such rates are assessed.

Justices to issue warrants to assessors to raise monies allowed for the relief of the poor.

Overseers with consent of two justices may enquire after idle or disorderly persons and oblige them to labor.

II. *And be it further enacted,* That the said overseers of the poor, or the major part of them, by and with the consent of two or more justices of the peace, dwelling in or near such town or parish respectively, are hereby empowered to enquire from time to time after any idle, or disorderly person or persons, married or unmarried, who have no visible means of support, and who are likely to become chargeable to the town or parish where they reside, and to oblige such person or persons to labor for any substantial person who may be willing to employ him or them: and if such poor person or persons have children in a suffering condition, the said overseers with the consent of the said justices are hereby empowered to bind such poor children apprentices, the males to be bound until they arrive to the age of twenty-one years, and the females to the age of eighteen years; and for such poor who are not able to earn a living but are supported at the public expense, the said overseers with the consent of the general sessions, are hereby empowered to hire or purchase a house for the reception of such poor, and to purchase materials to employ such of them as are able to labor; or to agree with some person residing in the same town or parish to take into their house at a yearly allowance and employ such poor in any labor they are able to do, and to give credit for the same to the overseers, from the sum allowed them for the said yearly maintenance of such poor; and that

May bind children of poor persons apprentices.

May hire or purchase houses for poor unable to work.

They agree with persons to take such poor into their houses &c.

public

public charities may not be abused, the said overseers are hereby directed to act with impartiality, and to put the said poor in the hands of the person who shall offer to keep them for the least expense, having at the same time a regard to the character of the person who offers, so that the poor may not be inhumanly treated, nor the public abused; and for which sum or sums of money, so expended, and all other expenses of the poor, in each town or parish they the said overseers respectively, are hereby authorized and required to ascertain and lay the same before the said justices as aforesaid at their general sessions, and the same so ascertained and allowed by the said general sessions shall be by them ordered to be assessed, collected and paid as aforesaid, unless the funds for the support of the poor and appropriated to such town in the respective county treasury are sufficient to pay said expense.

Overseers to act with impartiality and humanity

CAP. XLV.

An ACT to REGULATE the SALE of GOODS sold at PUBLIC AUCTION or OUT-CRY.

I. *Be it enacted by the Governor, Council and Assembly,*

THAT all goods, chattels, wares, merchandizes and effects whatsoever, which shall or may at any time or times, from and after the publication hereof and during the continuance of this act, be sold at public vendue, auction or outcry within this province, by any vendue master or vendue masters, auctioneer or auctioneers, or by any other person or persons whatsoever, shall be and hereby are declared and made subject to a duty of two pounds ten shillings for every hundred pounds of the value or price at which the same shall be sold as aforesaid, and after the same rate for every greater or lesser sum, to be paid by such person or persons, who shall so sell the same as aforesaid.

Goods, &c. sold at public vendue subject to a duty of two and a half per cent. to be paid by the seller.

II. *Provided always,* That all goods belonging to the crown, or seized by any public officer or officers, for or on account of any forfeiture or forfeitures, penalty or penalties, houses, cattle, lands, ships and vessels, goods and effects of deceased persons, or goods distrained for rent, or taken in execution, effects of insolvent debtors, household furniture, goods damaged at sea and sold on account of the owners or insurers within twenty one days after the same shall be landed, shall in no wise be subject to, but are hereby altogether exempted and declared, free from the duty before mentioned.

Excepting goods &c. belonging to the crown, houses, &c. goods &c. of deceased person. distrained for rent, taken on execution, of insolvent debtors, household furniture, and goods damaged at sea.

Vendue masters to recognize before a judge in £200, with two securities in £100 each for the payment of such duties.

Vendue masters to render an account upon oath to province treasurer within 20 days after every 3 months.

And within 21 days shall pay the duties.

Oath.

For neglect or refusal to account, &c. to forfeit £50. for every offence.

III. And in order more effectually to secure the duty hereby imposed as aforesaid: *Be it further enacted*, That no vendue master or vendue masters, auctioneer or auctioneers, or any other person or persons whatsoever, shall presume to sell or dispose of any goods, chattels, wares, merchandizes or effects at public vendue, auction or outcry, unless he or they first enter into recognizance to our sovereign lord the *King*, his heirs and successors, before any one of the judges of the supreme court of this province, or one of the judges of the inferior court of common pleas in any of the counties, in the penal sum of two hundred pounds current money of this province with two sufficient securities, each in the sum of one hundred pounds, like money, conditioned for the payment of the duties herein before mentioned, to the treasurer of this province for the time being, and in all things well and faithfully to behave according to the true intent and meaning of this act, which recognizance shall be filed with such judge before whom it shall be taken; and such vendue master or vendue masters, auctioneer or auctioneers, and every other person or persons who shall at any time or times during the continuance of this act, either for him or themselves, or on his, or their own account, or for or on account of any other person or persons whomsoever, sell or dispose of any goods, chattels, wares, merchandizes or effects, at public vendue, auction, or outcry, shall at or within twenty days after the expiration of every three months from the commencement of this act, render a just, exact and true account in writing, upon oath, to the treasurer of this province for the time being, of all and singular the goods, wares, merchandizes and effects, with the amount thereof, which he or they shall have so sold and disposed of at public vendue, auction or outcry, at each such sale as aforesaid, and shall within twenty one days thereafter, pay to the said treasurer for the time being, the sum of two pounds ten shillings out of every hundred pounds value for every such respective sale, and at the same rate for a greater or lesser value, which oath shall be in the following words, viz. *I A. B.* do solemnly swear in the presence of Almighty *GOD*, that the account now exhibited by me and to which I have subscribed my name, contains a just and true account of all the goods, wares, merchandizes and effects, sold by me, or any person or persons under me, within the time in the said account mentioned, which are liable to the duty imposed by an act, entitled "An act to regulate the sale of goods" at public vendue, auction or outcry, within this province" *So help me GOD*. And if the said vendue master, auctioneer or auctioneers, neglect or refuse to deliver such account on oath, and pay the duty within the time limited as aforesaid, he or they so neglecting or refusing, shall respectively forfeit the sum of fifty pounds for every offence, which forfeiture the treasurer of the province for the time being is hereby empowered and directed to sue for in any court of record in this province.

IV. *And be it further enacted*, That any person or persons presuming to sell, or dispose of any goods, wares or merchandizes, at public vendue or out-cry, without first entering into recognizance as above directed, shall forfeit the sum of one hundred pounds, for every offence, to be recovered in the manner above directed.

Persons selling at public vendue not having recognized, to forfeit £100.

V. *And be it further enacted*, That the treasurer for the time being shall keep exact and distinct accounts of the monies arising from time to time by virtue of this act; which monies shall remain in the hands of the treasurer for the use of the province.

Treasurer to keep exact account of monies arising by this act.

VI. *And be it further enacted*, That this act shall be in force until the first day of March, which shall be in the year of our Lord one thousand seven hundred and ninety.

Continuance of the act.

CAP. XLV.

An ACT for appointing COMMISSIONERS of SEWERS.

I. *Be it enacted by the Governor, Council and Assembly*,

THAT upon application of any proprietors of any marsh, low lands or meadow, the governor or commander in chief with the advice of his Majesty's council, may and is hereby authorized by commission to appoint such able and discreet persons as to him shall seem meet to be commissioners of sewers; in which commission such commissioners shall be authorized and empowered to convene and meet together from time to time as occasion may require, to consult, consider and devise means and methods for building, erecting or repairing such dams, dykes and wears as are or may be necessary to prevent inundations, and for the draining or drowning of marshes, swamps and other unprofitable lands and to employ labourers and workmen for such reasonable wages as may be agreed on for that purpose; and to tax and assess all such persons from time to time as shall or may be owners of such marshes, meadows, swamps or unprofitable lands as aforesaid, for defraying the expense thereof, having regard to the quantity of land of each person and benefits thereby to be received as equally as they can according to their best judgment: and also to appoint and swear a collector or collectors for collecting such assessments and paying the same to such persons as by said commissioners shall be appointed, with powers to distrain all such persons as shall neglect or refuse to make payment of his, her or their proportions assessed as aforesaid in like manner as is usually done in other cases by distress, and to call before them such collector or collectors to account for his or their

Governor may appoint commissioners of sewers.

By Commission with the advice of the Council
to be sworn under the Great Seal.

Their power and authority.

12) Power of Commission
1. To meet together to consult consider & devise means &c.

Commissioners
to be sworn.

trusts in regard to the premises, and likewise to value such repairs as may have been made to such dykes and wears by the proprietors before the date of their said commissions, and to apportion an assessment for the payment thereof by those who have been or may be benefited thereby in the same manner as if such repairs had been made by their own orders, which said commissioners shall be sworn to a faithful discharge of their duty, and may receive out of such assessment a reasonable compensation for their trouble, to be allowed by the governor and council to whom such commissioners shall be accountable.

Land of delin-
quent proprie-
tors may be sold
if no distress can
be found.

II. *And be it further enacted*, That if no person shall appear to pay the quota or proportion of any delinquent proprietor in any assessment made as aforesaid for the dyking or draining such lands, and no sufficient distress shall be found to answer such assessment the commissioners or fewers or major part of them shall by advertisement during three months in the Royal Gazette published by the KING'S Printer, and in the office of the register of deeds and conveyances of land in such county, cause notice to be given for letting out the lands of such delinquent proprietor, and if no person shall appear to hire the same, it shall and may be lawful for the said commissioners or the major part of them by warrant under their hands and seals to order the sheriff to sell at public auction to the highest bidder, so much of such delinquent's lands so dyked in and drained as may be sufficient to pay such proportion or quota due as aforesaid, with the charges of such sale, and such sheriff is hereby authorized and directed to execute a good and authentic deed to the purchaser or purchasers thereof their heirs and assigns.

Owner of marsh
land shall attend
or send laborers
to work in com-
mon cases.

III. *And be it further enacted*, That in all ordinary cases either in raising or repairing dykes or draining lands, each and every owner or possessor of marsh or low lands in this province where such commissioners are appointed, shall upon receiving six days notice from the commissioners, attend either himself or provide a sufficient laborer with proper tools to work at such time and place as by them shall be appointed, agreeable to the rules and regulations made for that purpose and according to the quantity or proportion of land belonging to such owner or proprietor, and where it may be necessary to employ oxen and carts each and every owner or possessor of such lands who have them, shall in like manner be obliged to attend with such oxen and carts for such work according to the discretion of said commissioners or shall forfeit and pay over and above his tax or assessment the sum of five shillings for every day's neglect and so in proportion for oxen and carts, to be recovered in any court proper to try the same, and the monies arising from such fines to be paid into the hands of the commissioners to be appropriated for repairs of such dykes.

Oxen and carts
may be employed

Penalties on re-
fusing.

IV. *And be it also further enacted,* That in case of any sudden breach in any dyke, or where the same is likely to be made, or inundation occasioned by high tides, storms or otherwise, each and every owner or possessor of land within such dykes, shall immediately on notice given by one or more of the commissioners, repair to the place directed with proper tools or teams, to labour and use their utmost endeavours to repair or prevent such breach, and shall continue to work from day to day, so long as the commissioners of sewers shall judge necessary, or shall forfeit and pay over and above their tax or assessment, the sum of ten shillings for each day's neglect, and so in proportion for oxen and carts, to be recover'd in manner and applied to the uses aforesaid.

Sudden breach of dykes every proprietor shall forthwith repair to the place.

Penalty on neglect.

V. *And be it further enacted,* That when the sod or soil shall have been cut off the lands of any proprietor in any tract of marsh dyked in common with other proprietors, for the purpose of dyking in the same, or when the land of such proprietor shall have been washed away by the tide or current of the river, or when by means of making new dykes for securing the marsh land so dyked in common, such proprietor shall have lost the whole or part of his lot, it shall and may be lawful for the commissioners of sewers to cause a just valuation to be made of such loss, by five disinterested freeholders who shall be sworn truly and impartially to value the same, and in case there be in such tract a sufficient quantity of land lying in common and undivided, to make good the loss so sustained, the commissioners shall deliver possession of so much thereof as is sufficient to make good the loss to such proprietor, by an assessment to the value thereof to be paid in a just and equal proportion by the other proprietors interested in such tract or piece of marsh land.

When sods and soil are cut for repair &c. the owners to be made good.

VI. *Provided always,* That any person aggrieved by any procedure of such commissioners may prefer his or their complaint by way of appeal to the governor and council for relief; at any time within six months, who are hourly authorized to grant redress, and on any groundless complaint, to tax double costs in favor of such commissioners.

Appeal to the Governor and Council.

CAP. XLVI.

An ACT for confirming unto the CITY of SAINT JOHN its RIGHTS and PRIVILEGES.

I. *Be it enacted by the Governor, Council and Assembly,*

THAT the mayor, aldermen and commonalty of the city of Saint John, shall and may forever hereafter remain, continue, and be a body corporate and politic, *in re facta et nomine,*

Mayor, Aldermen and Commonalty of the city of St. John to be a body corporate.

porate and poli-
tic and to sue &c.
by that name.

mine, by the name of the mayor, aldermen and commonalty of the city of Saint John, and by that name sue and be sued, plead and be impleaded, answer and be answered unto, without any seizure or forejudger for or upon any pretence of any forfeiture or misdemeanour at any time heretofore done, suffered or committed.

All letters patent
&c. to the mayor
&c. declared
good.

And that all and singular letters patent, grants, charters and gifts, sealed under the great seal of this province, heretofore made and granted unto the mayor, aldermen and commonalty of the city of Saint John, be and are hereby declared to be and shall be good, valid, perfect, authentic and effectual in the law, and shall stand and be taken, reputed, deemed and adjudged good, perfect, sure, available, authentic and effectual in the law, against the King's Majesty, his heirs and successors, and all and every person or persons whomsoever, according to the tenor, and effect of the said letters, patent grants, charters and gifts, and that the same be and are to all intents and purposes hereby ratified and confirmed.

Mayor &c. and
successors shall
forever hold &c.
all the rights
heretofore gran-
ted.

II. *And be it further enacted*, That the mayor, aldermen and commonalty of the city of Saint John and their successors, shall and may forever hereafter peaceably have, hold, use and enjoy, all and every the rights, gifts, charters, grants, powers, liberties, privileges, franchises, customs, usages, constitutions, immunities, markets, duties, tolls, lands, tenements, estates and hereditaments, which have heretofore been given or granted unto the mayor, aldermen and commonalty of the city of Saint John by any letters patent, grant, charter, or gift, sealed under the seal of this province.

This act shall be
accepted &c. to
be a public act.

III. *And be it further enacted*, That this present act shall be accepted, taken and reputed to be a public act of which all and every the judges and justices of this province in all courts and all other persons shall take notice on all occasions whatsoever, as if it were a public act of Assembly relating to the whole province, any thing herein contained to the contrary thereof in anywise notwithstanding.

CAP. XLVII.

An ACT for the better extinguishing FIRE S that may happen within the CITY of St. JOHN.

Preamble.

WHEREAS the inhabitants of the city of St. John have at great charge and expense supplied themselves and are provided with two fire engines, and have undertaken to procure various

various

*Uiel: Act in addition
post pa: 16A.*

various forts of poles, hooks, chains, ropes, ladders and other tools and instruments for extinguishing fires, the rage and violence of which may be in great part prevented if a sufficient number of skilful persons be appointed to have the care, management and working of the said fire engines, and other tools and instruments for extinguishing of fires, in cases of such casualty and distress that may hereafter happen.

I. *Be it therefore enacted by the Governor, Council and Assembly,* That from and with all convenient speed after the publication hereof, it shall and may be lawful to and for the mayor, aldermen and commonalty of the city of St. John or the major part of them in common council convened, and they are hereby required to elect, nominate and appoint a sufficient number of strong, able, discreet, honest and sober men, willing to accept, not exceeding thirty-two in number, being freemen or freeholders of the said city, to have the care, management, working and using the said fire engines and the other tools and instruments for extinguishing of fires that may happen within the said city, which persons so to be elected, nominated and appointed as aforesaid, shall be called the *Firemen of the city of St. John*, and who are hereby required and enjoined always to be ready at a call, by night as well as by day, to manage, work and use the same fire engines, and others that may hereafter belong to the same city, and the other tools and instruments for extinguishing of fires that may happen or break out in the city aforesaid.

Mayor &c. of the city of Saint John to elect proper persons to take charge of fire engines.

increased to 40
vid: post pa: 165.

To be called firemen.

II. And in order to compel and oblige the firemen so to be elected, nominated or appointed as aforesaid, to be diligent, industrious and vigilant, in the execution and discharge of their office and duty. *Be it further enacted,* That the mayor, aldermen and commonalty of the said city for the time being, in common council assembled, or the major part of them, are hereby authorized and empowered to remove and displace all or any of the firemen so as aforesaid to be elected, nominated or appointed, when and as often as they shall think fit, and others in the room or places of such as they shall remove or displace, to elect, nominate or appoint and put in, and so from time to time as they the mayor, aldermen and commonalty aforesaid, for the time being, in manner aforesaid shall see convenient.

Firemen removable by mayor, &c.

III. *And be it further enacted,* That the persons so to be elected, nominated or appointed firemen as aforesaid, and each and every of them from time to time, during the continuance of being in the office of firemen, and no longer, shall and are hereby declared to be freed, exempted, and privileged from the several offices of constable and surveyor of the highways, and from being compellable to serve in the militia except in cases of invasion or other eminent danger—and the names of such persons to be

Firemen freed from serving as constables.

Exempted also from serving as Jurors in the Mayor's Court
Solefians & Berthe's family
vid: post pa: 165.

Names of firemen registered

and entered with
clerk of the
peace.

be elected, nominated or appointed firemen by virtue hereof, from time to time, shall be registered and entered with the clerk of the peace for the said city, and if at any time after the publication of this act and the electing or appointing firemen by virtue hereof, any such person or persons elected or appointed firemen as aforesaid, shall be chosen, elected or appointed into any of the said offices, or to serve in the militia (except as before excepted) or be disquieted or disturbed by reason thereof, that then such person or persons producing a testimonial or certificate under the hand of the mayor, recorder, or any one alderman of the said city for the time being, of such his election, nomination or appointment to the person or persons by whom he shall be so elected or appointed, or by or before whom he shall be summoned, returned or required to serve, execute or hold any of the said offices or duties shall be absolutely discharged from the same, and such election, nomination, return and appointment, shall be utterly void and of none effect, unless such person or persons shall voluntarily consent and agree to hold such office or serve in such militia, any order, custom, law or practice to the contrary hereof in anywise notwithstanding.

Mayor, &c. to
make rules, &c.
for such firemen.

VI. *And be it further enacted*, That it shall and may be lawful to and for the mayor, aldermen and commonalty of the said city for the time being, or the major part of them, met as aforesaid, to make, establish and ordain such rules, orders, ordinances and regulations, in respect of the government, conduct, duty and behaviour of the persons from time to time to be by them elected, nominated or appointed firemen by virtue of this act, in the working, managing and frequent exercising, trying and using the same fire engines, tools and other instruments, and to impose and establish such reasonable fines, penalties and forfeitures, upon them or any of them, for default or neglect of the duties, businesses and services thereby to be enjoined or required from them, as the mayor, aldermen and commonalty of the same city, for the time being, or the major part of them, met as aforesaid, shall from time to time think meet and convenient.

And to impose
fines &c. for de-
fault of duty.

V. *And be it further enacted*, That upon the breaking-out of any fire within the city of St. John aforesaid, all sheriffs, under or deputy sheriffs, high constables, petty constables and marshalls, upon notice thereof, shall immediately repair to the place where the said fire shall happen, with their rods, staves and other badges of their authority, and be aiding and assisting as well in extinguishing the said fires and causing the people to work, as also in preventing goods from being stolen, and shall seize and apprehend all ill-disposed persons that they find stealing or pilfering from the inhabitants, as also that the said officers aforesaid, shall give their utmost assistance to help the inhabitants to remove and secure their said goods.

All sheriffs &c.
to repair to pla-
ces where fires
shall happen
with their rods,
&c.

CAP. XLVIII.

**An ACT AGAINST FORESTALLERS
and REGRATERS.**

I. Be it enacted by the Governor, Council and Assembly,

THAT from and after the publication hereof, whatsoever person or persons shall buy or cause to be bought any victuals of any kind whatsoever coming by land or water towards any market or fair already established or that may hereafter be established in this province to be sold in the same again, (except at the distance of ten miles at least from the place where such market or fair is to be held or kept) or shall make any bargain, contract, or promise for the having or buying the same, or any part thereof, or shall make any motion by word, letter or message or otherwise to any person or persons, for the enhancing the price, or dearer selling any kind of victuals or provisions for the use of man coming by land or water towards any market or fair as aforesaid shall be deemed and adjudged a forestaller.

Buying victuals or provisions coming to any market, within 10 miles thereof to be sold again deemed forestalling.

II. And be it further enacted, That whatsoever person or persons shall by any means regrate, obtain or get into his or their hands or possession in any fair or market in this province or on board any vessel in the harbour of Saint John, any corn, hay, butter, cheese, fish, mutton, lamb, veal, beef, pork, poultry or game of any kind, or other dead victuals whatsoever, or any roots, fruits, or vegetables whatsoever, that shall be brought to such fair or market or shall be on board such vessel for the supply of the markets of the city of Saint John to be sold, and do sell the same again in any fair or market, shop or stall holden or kept in the same place, within one month after purchasing or receiving the same shall be accepted, reputed and taken for a regrater or regraters.

Persons getting possessed in any fair or market, of corn, &c. brought for sale and shall sell the same again within one month, reputed regrater.

III. And be it further enacted, That any person or persons who shall be guilty of forestalling or regrating contrary to the intent and meaning of this act and shall be convicted thereof by the oath of one or more creditable witnesses or witnesses before any three of his Majesty's justices of the peace for the county where the offence is committed, or the mayor or recorder and two of the aldermen of the city of Saint John, when the offence shall be committed in the same city, shall be fined at the discretion of the said justices and the said mayor, recorder and aldermen respectively in any sum not exceeding ten pounds, and for non payment of his or their fine shall suffer imprisonment at the discretion of the said justices and the said mayor, recorder and aldermen respectively, not exceeding two months for each and every offence, one moiety of the said fine and forfeitures to be for the use of the poor of the town or city where the offence shall be committed, and the other moiety to him or them who shall sue for the same.

Persons guilty and convicted of forestalling or regrating shall be fined according to act.

And for non-payment of fine, to be imprisoned not exceeding two months.

~~CHAPTER IX.~~

An ACT establishing the RATES to be taken for WHARFAGE and CRANAGE of SHIPS and other VESSELS within the limits of this province.

Preamble.

WHEREAS the erecting of wharfs and cranes is found to be greatly serviceable and to conduce very much to the ease, benefit and convenience of trade and navigation and the increase of the same, and for as much as the proprietors of such wharfs and cranes, have and will be at a considerable expense in building, and keeping the same in repair.

Owners and proprietors of wharfs &c. may demand and receive wharfage.

II. *Be it enacted by the Governor, Council and Assembly,* That it shall and may be lawful to and for the owners and proprietors of wharfs and cranes now built or hereafter to be erected within the limits of this province, to ask, demand, take and receive to and for their several and respective uses, from all ships and vessels that shall use the same from and after the publication of this act the following rates, that is to say, for every vessel not exceeding fifty tons, whilst careening, loading, unloading or lying fast to any wharf after the rate of one shilling for each and every day they may so use the same, and for every vessel of fifty tons and not exceeding one hundred, so using as aforesaid after the rate of one shilling and six pence for each and every day they may so use the same, and for every vessel of one hundred tons and upwards, not exceeding two hundred tons so using as aforesaid, after the rate of two shillings and six pence for each and every day they may so use the same. And for every vessel of two hundred tons or upwards, so using as aforesaid, at and after the rate of three shillings for each and every day they may so use the same.

Masters, &c. of ships, &c. made fast to wharfs and capable of removal, on refusal to remove, shall forfeit 10s.

III. *And be it further enacted,* That every ship or other vessel which at any time shall only lie fast to any or either of the said wharfs, and shall be in a condition capable of being removed, shall be obliged to move off from thence in order to make room for, and suffer any other ship or vessel to load, unload, or careen thereat, and on refusal or failure so to do, after due notice and request thereof to the master or commander, or to any one of the owners of such ship or other vessel, he or they shall forfeit and pay to the owner or owners of such wharf, the sum of two pounds to be recovered upon complaint made, and due proof upon the oath of one or more credible witness or witnesses, before any one justice of the peace in the county, to be levied by warrant of distress and sale of the offender's goods, rendering the overplus, if any be after deducting the cost of prosecution, to the offender.

IV. *And be it further enacted,* That all and every ship, or other vessel, that shall make fast to any other ship or vessel that shall be fastened to any or either of the wharfs aforesaid, and shall continue so to be fastened, or shall so load, unload or careen, shall be subject and liable to pay the one half of the rates that such ship or other vessel so fastened should and would have been liable to pay by this act, in case they were fastened to any or either of the said wharfs and there loaded, unloaded and careened.

Ships making fast to other ships made fast to wharfs to pay half wharfage.

V. *And be it further enacted,* That it shall and may be lawful to and for the owner or owners respectively of every crane that now is or hereafter shall be made, erected and built on any or either of the wharfs aforesaid, to ask, demand, take, and receive to and for his, her or their several and respective use and uses, from the master, commander or owners of all ships and other vessels that shall use and employ such crane or cranes, the rates following, that is to say, for taking out and putting in the mast of any ship or other vessel the sum of twenty shillings; and for taking out or putting in the mast of any ship or vessel the sum of fifteen shillings, and for any other use or purpose of loading or unloading any goods, wares, merchandize or other thing at and after the rate of five shillings, for each and every day such ship or vessel shall so use the same.

Masters, &c. of ships, &c. to pay for use of cranes.

VI. *And be it further enacted,* That if any or either of the said wharfs or cranes shall at any time or times be so encumbered with lumber, mill-stones, or any other species of goods, so as to incommode or obstruct the passing or repassing of any carts or carriages employed for the purpose of loading, or unloading any ship or other vessel, then and in that case the owner or owners of such wharfs or cranes shall personally warn, or by notice in writing to be left at the place of residence of the owner or owners of such lumber, mill-stones or other goods, their agent or agents, requiring him or them to remove the same from thence within a reasonable time, and if the same shall not be removed accordingly, the owner or owners of said wharfs or cranes, by themselves or their agents, are hereby empowered to remove the same, and keep them in his custody, until the whole charges attending the removal be paid by the owner or claimer of such goods, and in case the owner or agent is not to be found, the owner of such wharf or crane may and shall at his discretion remove the said goods as before directed.

Owners of wharfs or cranes may remove and keep, until charge of removal be paid them all lumber &c. the owners thereof, on notice, not removing the same.

VII. *And be it further enacted,* That the master or commander, owner or agent of every ship or other vessel using any of the wharfs or cranes as aforesaid, shall be liable to pay the sum or sums due for the wharfage or cramage of such ship or other vessel after the rates by this act established to the owner or agent for such wharf or crane.

Masters, &c. liable to pay wharfage and cramage.

Agents not liable unless account delivered and demand made before sailing of such ships &c.

Provided, That such agent or agents for such ship or vessel shall be liable to pay the same only where an account shall be delivered to, or in case of absence, left at his or their house, and the money demanded of him or them, or his or their clerk before the sailing or departure of such ship or vessel from port: any thing herein contained to the contrary notwithstanding.

Rights of mayor &c. of St. John not infringed by this act.

Provided also, That nothing herein contained shall infringe, impair, or do away any right, which the mayor, aldermen and commonalty of the city of Saint John have or possess by the charter of the said city, as by law established.

CAP. I.

An ACT for regulating the exportation of FISH and LUMBER, and for ascertaining the quality of the same.

I. Be it enacted by the Governor, Council and Assembly,

Fish for exportation to be packed in barrels of at least 28 gallons.

THAT from and after the first day of April all pickled herrings, mackarel, cod and scale fish for exportation shall be packed in barrels of twenty-eight gallons at least, which barrels shall be made stout of well seasoned timber, free from sap, and have three sufficient hoops on each bilge, and three on each end, the chime hoops to be secured with nails. The fish shall be all of one kind, sweet, free from rust, close pack'd and full of strong pickle. All salmon for exportation shall be packed in barrels of thirty-one gallons and a half at least, or in tierces of forty-two gallons, and shall be free from oil. And before such pickled fish are shipped for exportation, every barrel shall be surveyed and inspected by proper persons appointed for that purpose in each county town and place where such fish shall be shipped, who shall be sworn to the faithful performance of their duty, and shall take care that the barrels and fish are in every respect agreeable to the regulations herein before specified, and shall mark the same with such brand or mark as shall be assigned him, which surveyor shall receive from the shipper for surveying, inspecting and branding, four pence per barrel. And all merchants and others shipping such fish, shall brand the initials of his name with his surname and N. Brunswick at full length on each barrel or tierce before they are shipped. And if any fish be shipped for exportation on board any ship or vessel before they are surveyed and branded as aforesaid, the owners or shippers of said fish and the master of the vessel receiving the same on board, shall on conviction pay a fine of five shillings for each barrel so shipped, to be equally paid by the shipper and master.

Salmon in barrels of at least 31 gallons and an half or in tierces of 42 gallons.

To be surveyed and inspected before shipping by inspectors to be appointed and sworn in each county.

All casks to be marked or branded by the inspector and also branded by the merchant shipping the same.

II. And

II. *And be it further enacted,* That all cod and scale fish for exportation shall before they are shipped, be culled by a sworn culler. Fish for the Spanish, Portugal, or Streights market, shall be of the first quality, properly cured, not salt burnt nor broke, smoothly split and perfectly sound. Those for the Madeira market shall be deemed merchantable altho' not smoothly split, provided they have the other qualities above-mentioned. Such as are for the West-India market shall be merchantable if they are well dried and cured, altho' they have not the other qualities before-mentioned. The culler of fish shall receive for weighing, inspecting and culling the same four pence per quintal, to be paid by the purchaser. And all persons shipping for exportation any dry fish before they are culled as aforesaid, shall forfeit and pay the sum of three shillings for each quintal so shipped.

Fish for exportation to be culled by sworn cullers.

III. *And be it further enacted,* That all boards, plank and scantling, for exportation, shall, before they are shipped, be surveyed by a sworn surveyor. All merchantable boards shall be square edg'd and full one inch thick when saw'd. If any are wainey, provided they are in all other respects merchantable, the surveyor shall receive the same deducting one eighth, and making allowance in the measurement for the wain. No more than four plank shall be allowed to a thousand feet of boards, and no board or plank shall exceed twenty-four feet in length. Proper allowance shall be made by the surveyor for shrinking when seasoned, and he shall also make reasonable allowance to the purchaser for all splits, rents and knot holes. All scantling, whether saw'd or hew'd, shall be properly squar'd, and the contents in board measure marked on each piece. If any boards or scantling are over-marked, the same shall be marked anew. The surveyors shall receive from the purchaser for surveying, eight pence per thousand feet, and also for new marking eight pence per thousand feet, but the new marking shall be made a charge of by the purchaser to the feller. And all persons shipping boards or scantling, not surveyed as aforesaid, shall forfeit on conviction the sum of ten shillings for every thousand feet so shipped by them.

Lumber for exportation to be surveyed by sworn surveyors.

IV. *And be it further enacted,* That all hoghead and barrel staves, and hoghead hoops, shall before they are exported be surveyed and culled by a sworn culler, who shall allow twelve hundred to the thousand. All hoghead staves shall be full four inches wide, three quarters of an inch thick at the thin edge, and shall also be three feet six inches long. All barrel staves for the Irish market shall be thirty inches long, three and an half inches wide, and three quarters of an inch thick at the thin edge. All hoghead hoops, shall be full fourteen feet long, three quarters of an inch broad at the smallest end, of substantial wood and well shaved. They shall be packed in bundles of thirty each, which shall

Staves and hoops before exportation, to be surveyed and culled by sworn cullers.

shall be well bound in four different places, and forty such shall be allowed to a thousand. The surveyor or culler shall receive from the purchaser eighteen pence per thousand for each thousand of staves, and nine pence per thousand for each thousand of hoops so culled by him. And all persons shipping for exportation any staves or hoops not culled as aforesaid, shall on conviction forfeit ten shillings per thousand for every thousand so shipped by them.

Dimensions and qualities of timber, masts, bowsprits and spars for the British market.

V. *And be it further enacted*, That all square timber for the British market, shall not be less than ten inches square, and sixteen feet long, well squared and free of bark. That all crooked timber, knees and anchor stocks, shall be sound and free from rots. That all masts, bowsprits, and spars of every kind be free from shakes and rotten knots. That before any such timber, masts or spars, are ship'd for exportation, they shall be surveyed by a sworn surveyor, who shall mark the contents of the timber and number of inches, the masts and spars will work on each piece, and shall receive for surveying and marking, twelve pence per ton for the timber, and in like proportion for masts and spars, said surveying to be paid by the purchaser. And all persons shipping timber, masts or spars, not surveyed as aforesaid, shall forfeit five shillings for every ton so shipped.

Dimensions and quality of clapboards and shingles.

VI. *And be it further enacted*, That all clapboards for exportation shall be five inches wide, full half an inch thick on the back, and four feet four inches long, streight, well shaved and free of sap, shakes and worm holes. That all common shingles for exportation shall be full four inches wide, half an inch thick at the but end, and eighteen inches long, free from worm holes, shakes and sap, and such as are for the Jamaica market shall be not less than five inches wide, three quarters of an inch thick at the thick end and twenty-two inches long. All bundles must contain two hundred and fifty shingles. *Provided always*, That this regulation relating to shingles, shall not be in force sooner than the first day of January next ensuing. All clapboards and shingles shall before they are ship'd for exportation, be survey'd by a sworn surveyor, who shall receive from the purchaser two pence per thousand for surveying the same. All persons shipping clapboards or shingles for exportation, until they are surveyed as aforesaid, shall forfeit ten shillings per thousand for clapboards, and three shillings per thousand for shingles so shipped.

To be surveyed before exported.

Inspectors and cullers of fish and surveyors of lumber how appointed.

VII. *And be it further enacted*, That it shall and may be lawful for the justices of the peace in each county at their first quarter sessions annually, or the mayor and aldermen of the city of Saint John, to appoint fit persons to be inspectors and cullers of fish and surveyors of lumber, in each county town and place where such may be necessary; which persons shall give bond in the sum of

fifty pounds with two sufficient sureties, and shall be sworn to the diligent and faithful discharge of their trust, and continue in said office till other proper persons be appointed in their stead.

VIII. *And be it further enacted*, That all fines or forfeitures arising by force or virtue of this act, shall be one half to him or them who shall sue for the same, and the other half for the benefit of the county where such fraud shall be committed. And if the same shall not exceed twenty shillings, it shall be recoverable before any one of his Majesty's justices of the peace, or where the same is more than twenty shillings and does not exceed three pounds, before any two of his Majesty's said justices, on the oath of one credible witness, by warrant of distress and sale of the offender's goods and chattels, under the hand and seal of said justice or justices, and for want of sufficient distress such offender to suffer not less than twenty nor more than sixty days imprisonment. And in case such fine or the value thereof shall exceed three pounds, the same may be recovered by him or them who shall sue for the same in any of his Majesty's courts of record in this province.

Forfeitures how recovered.

IX. *Provided always*, That all prosecutions by force of this act shall be commenced within six months after the time such offence was committed.

Prosecutions to be commenced within six Months.

X. *And be it further enacted*, That this act shall be read and published once every year at the opening of the first general quarter sessions of the peace for the several counties within this province.

To be read every year at the opening of the Sessions.

CAPIT.

An ACT to prevent FRAUDS in the SALE of DAMAGED GOODS imported into this province.

WHEREAS goods imported here, and insured in Great-Britain and elsewhere, are sometimes sold in this city or other port within this province for the account of the insurers; wherefore to prevent frauds in such sales.

Preamble.

I. *Be it enacted by the Governor, Council and Assembly*, That all damaged goods hereafter to be sold for account of the insurers shall be surveyed by the master, or one or more of the wardens of the port of Saint John for the time being, or other port within this province, at or upon the first unloading thereof, or as soon thereafter as the same are discovered to be damaged, which said master or wardens are to determine if the same has been properly

Damaged goods sold on account of insurers, to be surveyed by the master or warden of the port.

Sale to be public and in presence of the warden between the hours of eleven and three after advertising &c. and in separate parcels if most for the interest of the insurers.

The original invoice of the goods to be produced at the sale.

Vendue master and master or warden of the port to subscribe an account of the survey and proceedings and give a certificate &c.

Fees of the master and wardens.

Vendue master or master and warden offending against this act to forfeit &c.

No sales of damaged goods for the insurers, to be in other manner than herein provided, under forfeiture of double value. Penalties, &c. to be recovered in any court of record, one moiety to the informer the other to the province treasurer &c.

This act to continue in force until March 1786.

flowed; which sale shall be made in his or their presence at public vendue, in the most public and convenient place within the said city, between the hours of eleven in the morning and three in the afternoon first advertising the sale thereof at least twenty four hours; which said goods shall be only such as are really damaged in the judgment of such master or wardens, and the sale thereof shall be in such separate pieces or small parcels at a time as such master or warden shall think most for the interest of the insurers; and the person that shall order such damaged goods to be sold, shall at the time of the sale produce to the by-standers the original invoice of the sterling cost of such damaged goods, as he shall direct to be sold, for account of the insurers, unless such person do make oath that no such invoice is come to his hand.

II. *Be it enacted*, That of all sales of damaged goods for the account of the insurers, the vendue master or person acting as such, and master, or one or more of the wardens shall subscribe an account of every survey and the proceedings thereon, and the said master or wardens shall give a certificate to the end that the true damage may thereby appear.

III. *Be it also enacted*, That the master and warden or wardens, shall each receive seven shillings and six-pence a day for attending the services above-mentioned, to be paid by the persons at whose request the sale is made, and for every certificate five shillings. And that the vendue master or person acting as vendue master, and the master and wardens or either of them so offending against this act, shall for every offence forfeit the sum of twenty pounds; and that no person shall make any sale of goods for account of such insurers except in the manner above directed, nor make any demand for a loss without producing the account of sales and certificate above required, or a true copy thereof under the forfeiture of double the value of the amount of such sales; all and every of which said penalties and forfeitures may be recovered in any court of record in this province, by bill, plaint, or information, wherein no more than one imparlance shall be allowed, one moiety whereof shall be to any person suing for the same, and the other moiety to be paid to the treasurer of this province to be applied towards the support of government, in the manner hereafter to be directed.

IV. *And be it enacted*, That this act shall continue and be in force until the first day of March, one thousand seven hundred and eighty nine.

~~CAPITAL~~
An ACT for REGULATING PILOTS.

WHEREAS the appointment of wardens and branch pilots, Preamble.
for the different ports in this province, will tend to the safety of the navigation, and proper regulation thereof; as many accidents have happened and much damage been sustained through the ignorance or neglect of pilots from other ports, and not living in this province.

II. *Be it therefore enacted, by the Governor, Council and Assembly,* That the justices of the common-pleas in each of the counties, where the same shall be found necessary, shall appoint three or more wardens of the port, which wardens shall examine and recommend such branch pilots, and as many of them as may be found necessary. Which pilots so recommended are to be approved and appointed by the said magistrates for the port or ports respectively in each county within this province, and that the pilots so appointed, and confirmed as aforesaid, shall be entitled to demand and receive from the master of each ship or vessel that shall come into any port in this province, for which port said pilot shall have a branch, his established fees of pilotage, which shall be fixed by the said magistrates and wardens of such port, according to the draft of water such ship or vessel may draw, that is to say, if said pilot shall be found by the said wardens to have done his duty by offering his service of piloting such ship or vessel in proper place and time. And if the master of such ship or vessel do not employ such pilot, yet if he can prove that he offered his service at a proper time and place, he shall be entitled to receive from the master of such ship or vessel his full rate of pilotage, unless said ship or vessel belong to said port. Justices of common-pleas to appoint wardens of ports and branch pilots, when recommended by such wardens.

III. *Provided always,* That this act shall not be construed to extend to vessels commonly called coasters, going from one port in this province to another, or from one port to another in the Bay of Fundy, unless the master of such vessel respectively shall choose to employ such pilot. *Provided also,* That this act shall not be construed to extend to vessels which do not draw six feet of water. Pilots offering, tho' not employed, to receive full pilotage unless ships acc. belong to the port.

IV. *And be it further enacted,* That the said magistrates and wardens, are hereby authorized and empowered to make such regulations, and establish such rates of pilotage, as well as to subject the said pilots in the several counties respectively, to such penalties, and forfeitures for offences, as they shall judge expedient, during the continuance of this act, all which fees, penalties and forfeitures, shall be prosecuted for, and recovered before such court, as may be competent to take cognizance of the same. This act not to extend to coasters or vessels, not drawing six feet of water.

Powers of common council of St. John not abridged.

V. *Provided always*, That nothing in this act shall extend or be construed to extend to abridge, diminish or interfere with the powers given to the common council of the city of Saint John, in and by the charter of the said city.

Pilots appointed by said common council entitled to same fees, &c.

VI. *And be it further enacted*, That the pilots which shall be appointed by the said common council shall be entitled to the same fees, perquisites and privileges, that any pilots appointed by virtue of this act are entitled to.

CARLIII

An ACT for the REGULATION of SEAMEN.

Preamble.

WHEREAS great loss and damage is frequently occasioned to trade and navigation by seamen deserting their employ, or voyages they are entered upon, or being taken off from the same by arrest for debt or pretence thereof: for remedy whereof,

No attachment or process for debt to be served upon any seaman when engaged in a voyage.

II. *Be it enacted by the Governor, Council and Assembly*, That if any innholder, victualler, feller of rum and strong liquors, shopkeeper, or any other person whatsoever, shall trust or give credit to any mariner or seaman belonging to any ship or other vessel without the knowledge and allowance of the master or commander thereof in any sum not exceeding ten pounds, no *capias*, arrest or any other process for any debt so contracted without knowledge and allowance as aforesaid, shall be granted against or served upon the person of such mariner or seaman, until he shall have performed the voyage he is then enter'd upon and be discharged of the same, and every process issued contrary to this act, shall be deemed and adjudged utterly void in law. And any one justice of the court from whence such process shall issue to whom it shall be made to appear that any mariner or seaman is committed or restrained upon process granted for any such debt or pretence of debt made whilst he was engaged, and actually entered and in pay on any voyage, shall forthwith order his release, upon filing common bail to the action.

Penalty for shipping seamen knowing them to belong to any vessel.

III. *Be it further enacted*, That if the master or commander of any ship or vessel shall ship any seaman knowing him to be first entered and ship'd on board of any other ship or vessel, or after notice thereof given him shall not forthwith dismiss him, every such master or commander so offending being thereof convicted shall forfeit and pay the sum of ten pounds, to the use of the city or county where such offence shall be committed, to be sued for in any court of record proper to try the same, and such seaman so

First Clause repeated
vid: 395 (a).

fo shipping himself, being under the obligation of a former contract shall forfeit and pay the value of one months wages that he shall so agree for to be deducted from such wages, as he may have due or may afterwards be due unto him for the use of the party aggrieved.

IV. *Be it further enacted*, That if any mariner or seaman having shipped himself on board any ship or vessel which hath been launched or is actually preparing for sea, to proceed on any voyage and under pay, shall neglect his attendance and duty on board, and absent himself from his said service, upon complaint thereof made on oath, by the owner, master, or other officer of the said ship or vessel, to any justice of the peace within the same county, such justice is hereby empowered to cause such mariner or seaman to be forthwith brought before him by warrant, and upon conviction of his absenting himself as aforesaid, to commit to prison that he may be secured, and forth-coming, to proceed on the voyage he has so agreed to, and to be delivered by order of the justice that committed him, or some other justice in the same county, and all necessary charges attending his being so secured, and which have been actually paid by the said owner or master, may be deducted from such mariner or seaman's wages, as the same becomes due.

Seamen neglecting their attendance and duty when engaged.

Penalty.

V. *Provided always*, That no seaman shall be bound by entering or shipping himself on board of any ship or vessel, unless the agreement shall be in writing, and declare what wages such seaman is to have for so long a time as he shall ship himself for, and also express the voyage for which such seaman was shipped, any thing herein before to the contrary notwithstanding.

Seamen not bound unless agreement in writing.

CAPLIV

An ACT to enable the CORPORATION of the CITY of ST. JOHN to raise a sum of money, not exceeding THREE HUNDRED pounds in the whole nor more than ONE HUNDRED pounds in any one year, to pay off their debts already incurred and to defray the necessary contingent expenses arising within the said city.

I. *Be it enacted, by the Governor, Council and Assembly,*

THAT in order to enable the corporation of the city of Saint John, to pay off their debts already incurred and to defray

Common Council of the city of St. John to raise

by assessments
on the freehold-
ers &c. £300.
in sums of £100
a year.

the necessary contingent expenses arising within the said city, it shall and may be lawful for the common council of the said city to raise a sum of money not exceeding three hundred pounds in the whole, nor more than one hundred pounds in any one year, by rates or assessments upon the freeholders and inhabitants of the said city by just and equal proportions to be assessed by the said common council or by three or more assessors to be by them for that purpose appointed and levied upon and paid by the said freeholders and inhabitants in such manner, and under such rules, regulations, restrictions and penalties as the said common council shall direct and appoint.

Common Coun-
cil to appoint
assessors and col-
lectors.

II. *And be it further enacted*, that it shall and may be lawful for the said common council to appoint so many assessors and collectors as they in their discretion shall think fit to carry this or any other act or law into execution and that the monies to be raised and paid by virtue hereof shall be to the use of the mayor, aldermen and commonalty of the said city to be disposed of and appropriated by the said common council in the same manner as any other monies belonging to the said corporation are or can be disposed of and appropriated.

CAP. LV.

An ACT for RAISING a REVENUE in this Province.

Preamble.

WHEREAS it is necessary that a revenue should be raised for the support of this government,

Duty on import-
ation every pun-
cheon of rum or
other distilled
spirits, ten shil-
lings: every
hoghead of
malt liquors, not
directly from
Great Britain,
two shillings
and six pence.

I. *Be it enacted by the Governor, Council and Assembly*, That there shall be, and hereby are granted to his Majesty, his heirs and successors, the duties and impositions herein after mentioned; on the several goods and merchandizes, herein particularly enumerated; which shall be imported into this province, from and after the first day of April. That is to say, for every puncheon of rum, brandy or other distilled spirits, and likewise for every puncheon of shrub, or any other liquors of which the greater part is distilled spirits from all places from whence the same may be imported, shall be paid on importation of the same into this province the sum of ten shillings for each puncheon so imported. And for every tierce so imported, shall be paid the sum of five shillings, and for every barrel the sum of two shillings and six-pence. For every hoghead of porter, or other malt liquors, not imported directly from Great-Britain or Ireland, shall be paid the sum of two shillings and six-pence.

II. *And be it further enacted*, That all spirits and such malt liquors, to be imported into this province, shall be liable to pay the full duties according to the size of the cask by the description of the same, from the port of exportation: unless in case of leakage the master of the vessel in which the same is ship'd, or the owner of the article will have the same gauged by the King's gauger of the port where the same is enter'd, at his own expense, and if upon such gauging and examination it shall appear by a certificate from such gauger, that the cask is deficient, the master or owner of the article shall be allowed as a deduction for such leakage; for every puncheon that contains short of one hundred gallons the proportion of such deficiency, and for every tierce of spirits, or hoghead of malt liquor that contains short of sixty gallons, the proportion of such deficiency, and for every barrel of malt liquor that contains short of forty gallons the proportion of such deficiency, and for every barrel of spirits that contains short of thirty gallons the proportion of such deficiency, that is to say, allowing puncheons of spirits to contain one hundred gallons, tierces of the same sixty gallons, and barrels of the same thirty gallons, hogheads of malt liquor sixty gallons, and barrels of the same forty gallons: but if puncheons contain above the quantity of one hundred gallons they shall not be estimated at more than ten shillings duty upon each puncheon, hogheads of malt liquors and tierces of spirits are to be estimated at sixty gallons, unless they contain ninety gallons, in which case they are to pay seven shillings and six-pence each: barrels of spirits are to be estimated at thirty gallons unless they contain forty gallons, in which case they are to pay three shillings and nine-pence each. *Provided nevertheless*, That if it shall appear by the oath of the master or mate of the vessel importing the same, that one or more cask, or casks of such spirits or malt liquor are wholly leaked out, no duty shall be paid thereon, provided the sworn gauger do first certify the same, for which certificate the gauger is to demand and receive from the importer the sum of one shilling and no more.

Casks to be gauged and allowance to be made for deficiencies.

III. *And be it further enacted*, That the duty hereby imposed on spirits and malt liquors, and likewise on shrub, or any other liquors of which the greater part is distilled spirits, that shall be imported into this province, shall be calculated from the report of the master of the vessel in which the same is imported; which master or the owner or agent of such vessel, is hereby ordered and obliged to produce a manifest of the whole cargo such vessel hath on board, at the treasurer's office in the port where the same is to be entered, and shall take an oath or affirm (if a Quaker) to the truth of such report, in the same manner as at his Majesty's custom house, and such vessel shall not be admitted to an entry at said custom house without a certificate from the treasurer's office that such entry has been by the said master, made

Vessels to be reported, on oath, at the Treasurer's office, certificates thereof to be required at the Custom-house before the entry.

made at his office; and if said master, owner, or agent of such vessel shall make a false entry at the treasurer's office, he shall be subject to the same penalties, and forfeitures, as if the same had been made at his Majesty's custom house; and all goods found on board such vessel not entered as above directed by this act shall be forfeited, one half thereof to the informer who shall sue for, and recover the same and the other half to the treasurer for the use of the province.

No drawback to be allowed on reshipping, but a certificate from the Treasurer's office that the duty has been paid shall exempt from a second payment.

IV. *And be it further enacted*, That no drawback shall be allowed on any of the above articles if they are reshipped to any other port; but if they shall be shipped from one port to another within this province, they shall be free of duty at the second port provided the master of the vessel in which they are shipped procures a certificate from the treasurer's office that the duty has already been paid, or secured to be paid.

Merchandise of all sorts two and an half per cent. on prime cost, to be ascertained by a manifest of the whole cargo under oath and lodged in the Treasurer's office.

V. *And be it further enacted*, That for all sorts of merchandize of what nature or kind soever belonging to any person or persons not residing in this province nor consigned to any resident within the same, shall be paid a duty of two pounds, ten shillings for every hundred pounds value on the prime cost of such goods or merchandize at the port from whence the same was exported, and after that rate for a greater or lesser quantity, which first cost shall be ascertained by a manifest of the cargo lodged in the treasurer's office by the master, owner or agent of the vessel importing such goods, and merchandize; which said master, owner, or agent, shall be obliged to enter at the treasurer's office, and there report his whole cargo, and swear to the truth of his manifest; within forty eight hours after his arrival in such port, and make a true report under his hand, of every parcel or parcels of goods or commodities he has on board mentioning therein the quantity and quality of said goods, and the name and names of the person or persons by whom the same were shipped, and to whom the same are consigned; which report if false, the person making the same shall be subject to the same penalties and forfeitures as in case of a false report made at his Majesty's custom house and to a forfeiture of all the goods not included in his report, that shall be found on board his vessel to be recovered and applied in the manner above-mentioned.

All goods imported except from Great-Britain, Ireland, or any British dominions, five per cent on prime cost.

VI. *And be it further enacted*, That for all goods imported into this province from and after the first day of April next, from any port or place whatsoever, except from Great-Britain, Ireland, or any of the British dominions, there shall be paid on such goods so imported, a duty of five pounds for every hundred pounds value, prime cost, except lumber, live stock, indian meal, grain of all kinds, salt, and all goods that are liable by act of parliament to pay a duty to his Majesty.

VII.

VII. *And be it further enacted,* That the justices of the quarter sessions in the several counties in this province are hereby required and impowered to give license to such persons only, as they may judge proper to retail spirituous liquors, and that under such restraints, as to them may seem expedient, each one paying for such license the sum demanded by the said magistrates of the several counties in this province, provided the same shall not exceed four pounds; who are hereby authorized to grant the same. And in order to suppress vice and immorality, the said magistrates are to grant license only to persons of good fame and character, and that under certain limitations and restrictions that no person or persons shall obtain a license in future to retail spirituous liquors but such as give bond with two sufficient sureties, in the sum of fifty pounds, conditioned that they shall comply with the regulations hereafter mentioned; as also such acts of assembly as respects retailers or tavern-keepers, as the case may be: and that each innholder or tavern-keeper, upon obtaining such license shall hang up a sign expressing his, her, or their occupation, or to have wrote over the door of their house or store, that they have obtained such license and that they follow that occupation, and that no person or persons presume to retail spirituous liquors in future without complying with the aforesaid regulations, under the penalties hereafter mentioned: and before any person or persons shall obtain a license to retail any spirituous liquors, they are hereby required and obliged to give bond as aforesaid to account once in three months, and pay to the treasurer of the county in which they reside three pence for each and every gallon of rum or other spirituous liquors they have so sold and retailed in that time, also six-pence for each and every gallon of wine that they have sold in that time, and one penny for each and every gallon of malt liquor that they have sold in that time: each and every tavern-keeper, innholder, or retailer, are to give in under oath or affirmation the whole of the aforesaid spirits or liquors they have so sold, or retailed in like manner in the period of time afore-mentioned. And if it shall hereafter be found within three months after the offence is committed, that they who have obtained a license as aforesaid, have sold more of either sort of liquor than what they have accounted for; every such person shall pay a fine of five shillings for each and every gallon of spirits or other liquor, so proved to be sold and not accounted for, and their license shall be forfeited, and every such person so offending shall pay a fine not to exceed five pounds for each and every offence; one half to the informer who shall prosecute the same to effect, and the other half to the treasurer or person appointed to receive the excise for the use of the province.

Inholders and retailers of spirituous liquors to be licensed by the justices of the sessions and to pay for each license a sum not exceeding four pounds.

To pay every 3 months to the treasurer of the county 3 pence for every gallon of rum and other spirituous liquors and six pence for every gallon of wine and one penny for every gallon of malt liquor, they have sold in that time.

To give on oath an account of the whole quantities so sold, to pay a fine of five shillings for every gallon unaccounted for and to forfeit their license.

VIII. *And be it further enacted,* That no person or persons shall presume to sell any spirituous liquors, wine or malt liquor by retail, in a less quantity than five gallons, without license had

No person, unlicensed, to sell wines, spirits or malt liquors by

retail in a less quantity than 5 gallons under penalty of five pounds for each offence.

and obtained as aforesaid, and hanging up a sign, or writing over the door as aforesaid under the penalty of five pounds for each and every offence; one-half to the informer who shall prosecute the same to effect, and the other half to the use of the province.

On payment or sufficient security given for payment of the duties within 3 months, the treasurer to give the party a certificate thereof to the land or tide waiter, whereupon the goods may be landed.

IX. *And be it further enacted*, That for any of the above mentioned dutiable goods, where the duties amount to above ten pounds, if the master of the vessel in which the same is imported, or the owner of the goods, will give bond, with sufficient sureties to pay for the same in three months, after the date of the entry of such goods, by bond or bill at the discretion of the said treasurer; who is to give *gratis* to the person so paying or securing the payment of such duties, a certificate to the land or tide-waiter, that the duties are paid, or secured to be paid, according to this act, for the goods to be mentioned in such certificate, and thereupon such goods shall and may be landed and stored, without any manner of hindrance or obstruction.

The treasurer after 3 months to prosecute persons indebted for duties.

X. *And be it further enacted*, That for the recovery of such of the duties as are imposed by this act, as shall not be paid within three months after the entry thereof, the said treasurer shall be empowered to cause process to be issued against all and every person and persons who shall stand indebted for duties longer than three months allowed for the payment thereof.

The treasurer to be answerable for any duties which he shall neglect to sue for.

XI. *And be it further enacted*, That if the said treasurer shall not cause process to be made for any duties to arise by virtue of this act, at the end of four months, hereby limited for the payment thereof, such duties and the arrears thereof, as he shall so omit to sue for, shall be deemed as assets in his hands, and he shall in such case be answerable for the same accordingly.

Authorized to prosecute in his Majesty's name but at his own costs for such duties as he is above made answerable for.

XII. *And be it further enacted*, That the treasurer shall be fully authorized to commence and prosecute suits in his Majesty's name, but at his own cost and charges, for such part of the above mentioned duties, as by the foregoing clause he is made answerable for.

All money arising by virtue of this act to remain in the treasury until disposed of by act of Assembly.

XIII. *And be it further enacted*, That all the money to arise by virtue of this act, shall remain in the treasury until the same shall be disposed of by an act, or acts of the Governor, Council and Assembly to be passed for that purpose.

The treasurer with the Governor's approbation to nominate receivers of the duties in the several counties.

XIV. *And be it further enacted*, That the treasurer of the province for the time being, shall nominate fit persons, to be approved of by the Governor in the several counties in this province to receive the several duties, and impositions laid and imposed by this act, which person so appointed shall give good and sufficient security to such treasurer for the faithful discharge of their duty and to be accountable for all sums so to be received by virtue

virtue of this act, to the treasurer, when thereunto required which persons so appointed shall have and retain five pounds for every hundred pounds, they shall so receive in full for their trouble and services.

Provided always, That nothing in this act shall extend or be construed to extend to abridge, diminish or interfere, with the rights, privileges, powers, authorities and immunities given and granted to the mayor, aldermen and commonalty of the city of Saint John or any or either of them, in or by the charter of the said city.

Saving the rights and privileges of the city of Saint John.

Provided also, and be it further enacted, That the innholders, tavern-keepers and retailers licensed in the said-city by virtue of the said charter shall be liable to the payment of the excise imposed by this act as innholders tavern-keepers and retailers appointed by the justices in their sessions in the several counties are made liable.

Provided that the Innholders &c. of the city of St. John shall be liable to the payment of the excise hereby imposed.

And be it further enacted, That this act shall continue and be in force for one year, and no longer.

Limited to one year.

CAP. LXI

An ACT to rectify the MISTAKES in "An Act for raising a REVENUE in this province."

WHEREAS in the sixth section of said act certain duties are laid upon certain articles therein specified, with exemptions from such duties of all such articles as shall be imported from Great-Britain, Ireland, or any of the British dominions, which exemption is not expressly mentioned in the fifth section of the same act, to the intent to discriminate such exemptions,

Preamble.

I. *Be it enacted by the Governor, Council and Assembly,* That nothing in the said fifth section, shall be construed to extend to any produce or manufacture of Great-Britain or Ireland, or other merchandize imported directly from thence by any person or persons residing either in Great-Britain or Ireland, and that the said sixth section shall extend to every article, not the growth, produce, or manufacture of Great-Britain, Ireland, or other British dominions; unless imported from Great-Britain or Ireland, or the growth, produce, or manufacture of such part of the British dominions as the same shall be imported from, except the articles, in the said sixth section, particularly specified and excepted, any thing in said act in anywise to the contrary notwithstanding.

Nothing in the fifth section to be construed to extend to any produce &c. of Great Britain, or Ireland, or other merchandize imported directly from thence.

Explanation of the sixth section.

An

CAP. LVII.

An ACT to lay a TAX on DOGS.

Preamble.

WHEREAS the support of the poor is the positive duty of all civilized societies, and ought to be provided for in a manner as little burthenfome as possible, and as the number of dogs in the city of Saint John as well as in some other parts of this province have become a public grievance.

Persons keeping more than one dog to pay for each dog 5s.

II. *Be it enacted by the Governor, Council and Assembly,* That it shall and may be lawful for the collectors appointed to collect the poor tax in the city of Saint John, and in each county or parish in this province once in every year after the first day of May next, during the continuance of this act (and not oftener) to demand and receive of and from all persons within their limits having the property in, or keeping any dogs of what kind or size soever of six months old and upwards, the sum of five shillings for each dog more than one, kept by him, her or them, or in their families, to be paid to the overseers of the poor for the support of their poor respectively.

2s6 to be paid for each dog in the city of Saint John, over and above 5s. for a second dog, &c.

III. *And be it enacted,* That such collector appointed for the city of Saint John, shall demand, collect and receive, of and from each and every person and persons resident in said city keeping one dog of the age aforesaid, the sum of two shillings and six-pence, over and above said sum of five shillings for such second dog or any above that number, to be collected and applied in manner aforesaid.

On refusal to pay, the collectors to levy by distress.

IV. *And be it further enacted,* That if any person or persons having property in, or keeping any dogs, of what size or kind soever as aforesaid, shall neglect or refuse to pay unto the collector or collectors of their several and respective districts, the sum or sums as above fixed when thereunto required, it shall and may be lawful for the collectors of the respective districts, within the several counties in this province, to levy the same by distress and sale of the offender's goods, returning the overplus if any be, and for want thereof to commence and prosecute his or their action or actions against any delinquent or delinquents within their respective districts, for the recovery of the same, with cost of suit before any one justice of the peace for the city or counties aforesaid, and if any person or persons shall deny that he, she or they, have property in, or keep any dogs, yet upon proof that such person or persons are in possession of, or suffer the same to remain in or about his, or her house, ten days before the demand made by the collector, he, she or they, shall be deemed to be the owner or owners of such dogs, and liable to the payment of the aforesaid tax, to be recovered as above; and if any dog shall keep about any person's house ten days, and no person appearing in that time

For want of goods may commence suits.

to claim the same, it shall and may be lawful for such persons having such dogs about his or her house as aforesaid, to kill them at any time after the said ten days.

V. *And be it further enacted*, That the collector or collectors of each respective district within this province, shall each keep a book and therein enter the names of every person in their several and respective districts keeping dogs and the number, with the tax, or sums collected by virtue of this act, and the same shall pay into the hands of the person or persons who shall be appointed to receive the same, in the several and respective districts or parishes in this province, to be by them applied for the use of their poor respectively, and the money arising from the tax aforesaid in the city of Saint John, shall be paid into the hands of a person or persons appointed by the mayor, aldermen and commonalty of the said city, to be by them applied for the support of the poor of said city, and the money arising therefrom in the counties to be paid into the hands of a person or persons appointed for the purpose by the justices of the quarter sessions, to be applied for the support of the poor in their several and respective districts, each collector retaining in his hands two shillings in the pound for collecting and paying the same.

Collectors to enter in a book the names of all persons in their districts keeping dogs, their number, &c.

VI. *And be it further enacted*, That the mayor, aldermen and commonalty of the city and county of Saint John, and the justices of the quarter sessions in each of the other counties in this province respectively are hereby authorized to appoint a collector or collectors of the aforesaid tax in each county in this province, and if such collector or collectors shall neglect or refuse to do what is enjoined by this act, shall respectively, forfeit and pay the sum of five pounds to be recovered by plaint or information before any two of his Majesty's justices of the peace of the city or county where the offence shall be committed, with costs of suit, by any person or persons who shall prosecute the same to effect; one half to the prosecutor and the other half to the use of the poor of such county where the offence was committed.

Justices in sessions to appoint collectors.

Collectors to forfeit £5 for neglect of duty and costs.

VII. *And be it further enacted*, That the mayor, aldermen and commonalty of the city and county of Saint John and the justices of the quarter-sessions in each of the other counties respectively in this province, are hereby empowered and required to appoint one or more collector or collectors, as they may judge proper for their several counties who shall be vested with ample power and authority to collect the aforesaid tax, in their several and respective districts after the first day of May next, and be liable to the aforesaid penalties, if not collected by the first of September following.

Tax to be collected after first of May and collectors liable to the penalties aforesaid, if not collected before the first of September.

This act to be in force until the first day of May which shall be in the year of our lord one thousand seven hundred and ninety.

Continuance of the act

CAP. LVIII.

An ACT against TUMULTS and DISORDERS, upon pretence of preparing or presenting PUBLIC PETITIONS or other ADDRESSES to the Governor, or General Assembly.

Preamble.

TO prevent tumultuous and other disorderly soliciting and procuring of hands by private persons to petitions, complaints, remonstrances and declarations, and other addressees to the Governor, Council and Assembly, or any or either of them, for alteration of matters established by law, redress of pretended grievances in church or state, or other public concerns, being made use of to serve the ends of factious and seditious persons to the violation of the public peace.

No persons to solicit &c. more than 20 subscribers to petitions &c. to the governor, council and assembly, unless consent to by three justices or by grand jury.

II. *Be it enacted by the Governor, Council and Assembly,* That no person or persons whatsoever shall solicit, labour or procure the getting of hands, or other consent, of any persons above the number of twenty or more, to any petition, complaint, remonstrance, declaration or other address to the Governor, Council and Assembly or any or either of them, for alteration of matters established by law in church or state, unless the matter thereof have been first consented unto and ordered by three or more justices of that county, or by the major part of the grand jury of the county or division of the county, where the same matter shall arise, at their public assizes, or general quarter sessions; and that no person or persons whatsoever shall repair to the Governor, Council or Assembly, upon pretence of presenting or delivering any petition, complaint, remonstrance or declaration, or other addressees, accompanied with excessive number of people, nor at any one time with more than the number of ten persons, upon pain of incurring a penalty not exceeding the sum of one hundred pounds in money, and three months imprisonment without bail or mainprize for every offence; which offence to be prosecuted in the supreme court, or at the general quarter sessions, within six months after the offence committed and proved by two or more credible witnesses.

Nor repair to the governor &c. to present such petitions, &c. accompanied by more than ten persons.

Offenders shall incur a penalty of £100 and three months imprisonment.

This act not to extend to persons not exceeding twenty, presenting grievances to members of council, &c.

Nor addressees of the council, &c. to the governor.

III. *Provided always,* That this act or any thing therein contained, shall not be construed to extend to debar or hinder any person or persons, not exceeding the number of twenty aforesaid, to present any public or private grievance or complaint to any member or members of the Council or Assembly, during the sitting of the General Assembly, or to the Governor, for any remedy to be thereupon had; nor to extend to any address whatsoever to the Governor, by all or any of the members of the Council and Assembly, or either of them, during the sitting of the General Assembly, but that they may enjoy their freedom of access to his Excellency, as heretofore hath been used.

~~CAP. LX. R. S. A. 1~~

An ACT for the speedy PUNISHMENT
and RELEASE of such persons as shall
commit CRIMINAL OFFENCES under the
degree of grand larceny.

I. *Be it enacted by the Governor, Council and Assembly,*

THAT if any person or persons shall hereafter be guilty of any breach of the peace, or other criminal offence under the degree of grand larceny and being committed to the common goal, shall not within forty eight hours, after such commitment give sufficient bail for his or their appearance at the next general quarter sessions of the peace for the county where such offence shall be committed then and there to answer for the same; it shall and may be lawful for any three of his Majesty's justices of the peace in each county (*quorum unus*) and if in the city of Saint John for the mayor, recorder and aldermen for the time being or any three of them, wherof the mayor or recorder shall be one, forthwith to hear and determine the offence committed by such offender or offenders as aforesaid; and on conviction by confession or the oath of one or more credible witness or witnesses, the said magistrates are hereby authorized to give judgment against such offender or offenders so committed, to have and receive such corporal punishment (not extending to life or limb) as they in their discretion shall think fit, after which punishment said criminal or criminals if an inhabitant or inhabitants of such county or city shall immediately be discharged without paying any fees, but if not an inhabitant or inhabitants, he or they shall immediately be ordered out of such county or city, to the place of his, her, or their former settlement or place of abode, or out of this province. And if any person or persons, having been so ordered out of such county or city shall remain in the same for the space of five days or return thereto within twelve months after such order the person or persons so remaining or returning shall be forthwith apprehended, and again receive such corporal punishment as said magistrates shall in their discretion order and direct (not extending to life or limb) as aforesaid.

Persons guilty of and committed for offences under the degree of grand larceny may be tried by any three justices *quorum unus*.

How punished.

II. *And be it further enacted,* That the charge of prosecuting and punishing such offender or offenders, shall be raised, levied, and paid in like manner, and at the same time, that money is raised in such county or city for paying the contingencies of the same; so as the whole charge for prosecuting and punishing each such offender shall not exceed the sum of fifteen shillings currency of this province.

Charge of prosecution raised, &c. as county contingencies.

CAP. LX.

An ACT for the CONVICTION and PUNISHMENT of CRIMINALS who shall refuse to plead when arraigned, and for the TRIAL of those who shall peremptorily CHALLENGE more than TWENTY.

I. Be it enacted by the Governor, Council and Assembly,

Persons refusing to plead &c. in cases of felony or misdemeanors, shall be deemed guilty.

THAT in all cases of felony or misdemeanor, if the person indicted shall refuse to plead to the indictment, stand mute or not answer directly to the same, he shall be deemed guilty and judgment shall be pronounced and execution awarded as if such person had been convicted of such offence by verdict or confession.

A peremptory challenge of more than twenty jurors, shall be over-ruled.

II. And if any prisoner, indicted of a capital crime, shall peremptorily challenge more than twenty of the jury such challenge shall be over-ruled, and the jurors shall be sworn for the trial of such prisoner, as if no such challenge had been peremptorily made.

CAP. LXI. 61.

An ACT for the TRIAL and PUNISHMENT of CRIMINALS who shall steal bills of exchange, bonds, warrants, bills or promissory notes.

Be it enacted by the Governor, Council and Assembly,

Stealing or robbing of bills of exchange &c. deemed felony of the same nature as stealing or robbing of money, &c. and punished accordingly.

THAT if any person shall steal or take by robbery, any bills of exchange, bonds, warrants, bills or promissory notes for the payment of money, being the property of any person, persons, or body politic, it shall be deemed a felony of the same nature and within or without the benefit of clergy in the same manner as it would have been if the offender had stolen, or taken by robbery, money or goods of the like value with the money due on such bills of exchange, bonds, warrants, bills or notes, or secured thereby, and remaining unsatisfied; and the criminal shall suffer like punishment as if he or she had stolen other goods or money of the like value, notwithstanding any of the said particulars so stolen, are termed in law a *chose* in action.