



# A COLLECTION

OF THE

## PUBLIC GENERAL STATUTES

OF THE

COLONY OF VANCOUVER ISLAND,

PASSED IN THE YEARS

1859, 1860, 1861, 1862, AND 1863.



VICTORIA, V. I.,

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1863.

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## AN ACT

### **To provide for the Resignation and Vacating of Seats in the House of Assembly in the Colony of Vancouver Island and for the Election of Members on Vacancies.**

BE IT ENACTED by the Governor, on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly :—

I. It shall be lawful for any Member of the House of Assembly, by writing under his hand addressed to the Speaker of the said House of Assembly, to resign his seat therein, and upon the receipt of such resignation by the Speaker the seat of such Member shall become vacant.

*Resignation of  
Seats in the  
Assembly.*

II. If any Member of the Assembly shall for one whole Session of the Legislature, without the permission of the Assembly entered upon its journals, fail to give his attendance in the said House, or shall renounce, or make oath, or a legal declaration of his intention to renounce his allegiance to Her Majesty, Her heirs and successors, or do or concur in or adopt any act whereby he may become entitled to the rights, privileges, or immunities of a subject of any foreign State or Power, or shall become bankrupt or an insolvent debtor within the meaning of the laws in force within the said Colony relating to bankrupts or insolvent debtors, or shall become a public defaulter, or be attainted of treason, or be convicted of felony, or of any infamous crime, his seat in such Assembly shall thereby become vacant.

*Vacating seats of  
Members of  
Assembly in  
certain cases.*

Election to take  
place on vacancy.

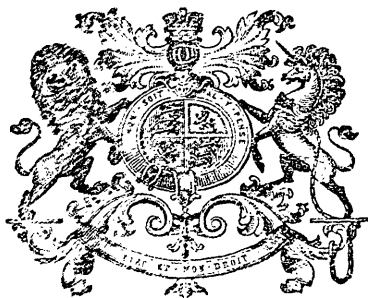
III. Whenever a vacancy shall occur as aforesaid, upon a Resolution by the Assembly declaring such vacancy and the causes thereof, the Speaker shall cause a writ to be issued for supplying such vacancy. Provided, that the Speaker may issue such writ without such preceding Resolution when the Assembly is not in session.

Passed the Council 18th July, 1859.

E. CRIDGE,  
Hon. Sec'y.

Passed the House of Assembly August 23d, 1859.

Jos. PORTER,  
Clerk of the House.



# A BILL

## For the passage of an Act respecting the property of Religious Institutions in the Colony of Vancouver Island and its Dependencies.

Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver's Island. enacts as follows :

I. Where a Religious Society or Congregation of Christians in the Colony of Vancouver's Island and its Dependencies desire to take a conveyance of land for the site of a Church, Chapel, Meeting House, Burial Ground or residence for the Minister or for the support of Public Worship and the propagation of Christian knowledge, such Society or Congregation may appoint Trustees, to whom and their successors to be appointed in such manner as may be specified in the Deed of Conveyance the land requisite for all or any

When Lands  
may be vested  
in Trustees for  
Churches,  
Churchyards,  
Burial Grounds  
&c.

of the purposes aforesaid may be conveyed ; and such Trustees and their successors in perpetual succession by the name expressed in the Deed, may take hold and possess the land and maintain and defend actions in law or equity for the protection thereof, and of their property therein.

Conveyances to Trustees to be registered within twelve months.

II. But such Trustees shall, within twelve months after the execution of the Deed of Conveyance, cause the Deed to be registered in the office of the Registrar General of the colony, or otherwise the same shall be void.

When Trustees may mortgage lands so held.

III. When a debt has been, or may hereafter be contracted for the building, repairing, extending or improving of a Church, Meeting House or Chapel, on land held by trustees for the benefit of any Religious Society in the colony of Vancouver's Island, or for the purchase of the land on which the same has been, or is intended to be erected, the trustees, or a majority of them, may from time to time secure the debt, or any part thereof, by a mortgage upon the land-Church, Meeting House or Chapel, or may borrow to pay the debt or part thereof, and may secure the repayment of the loan and interest by a like mortgage upon such terms as may be agreed upon.

Trustees may lease lands in Trust for 21 years, and renew such leases &c., or may bind their successors to pay for improvements.

IV. The Grantees in trust named in any letters patent from the Crown, or the survivor or survivors of them, or the trustees for the time being appointed in manner prescribed in the Letters Patent, whereby lands are granted for the use of a Congregation or Religious Body, and any other Trustees for the time being entitled by law to hold lands in trust for the use of a Congregation or Religious Body, may let, for any term not exceeding twenty-one years, lands so held by them for the use of a Congregation or Religious Body, at such rent and upon such terms as the Trustees or a majority of them deem reasonable ; and in the lease they may covenant or agree for the renewal thereof at the expiration of any or every term of twenty-one years for a further term of twenty-one years or a less period at such rent and on such terms as may then by the Trustees for the time being be agreed upon with the lessee, his heirs, executors, administrators or assigns, or may covenant or agree for the payment to the lessee, his executors, administrators or assigns of the value of any buildings or other improvements which may, at the expiration of any term, be in the demised premises, and the mode of ascertaining the amount of such rent or the value of such improvements may also be specified in the original lease.



V. But Trustees shall not have the power so to let, without the consent of the Congregation or Religious Body, for whose use they hold the land in trust, such consent to be signified by the votes of a majority of the members present at a meeting of the Congregation or Body duly called for the purpose, nor to let any land which at the time of making the lease is necessary for the purpose of erecting a Church or Place of Worship, or other building thereon, or for a Burial Ground for the Congregation for whose use the land is held.

Land not to be leased without consent of Congregation.

VI. The Trustees, for the time being, entitled by law to hold land in trust for a Congregation or Religious Body may, in their own names or by any name by which they hold the land, sue or distrain for rent in arrear, and take all such means for the recovery thereof as landlords in other cases are entitled to take.

Trustees may sue or distrain for rent in arrear, and in what name.

VII. When land held by Trustees for the use of a Congregation or Religious Body becomes unnecessary to be retained for such use, and it is deemed advantageous to sell the land, the Trustees for the time being may give public notice of an intended sale, specifying the premises to be sold, and the times and terms of sale; and after publication of the notice for four successive weeks in a weekly newspaper published in or near the place where the lands are situated, may proceed to sell the land at public auction according to the notice, but the Trustees shall not be obliged to complete or carry into effect the sale, if in their judgment an adequate price is not offered for the land and the Trustees may thereafter proceed to sell the land either by public or private sale; but a less sum shall not be accepted at private sale than was offered at public sale. And before a deed is executed in pursuance of a public or private sale the Congregation or Religious Body for whose use the lands are held shall be duly notified thereof and the sanction of the Supreme Court of Civil Justice obtained for the execution of the deed.

How land in trust may be sold when no longer required by the Congregation.

VIII. Trustees selling or leasing land under the authority of this Act shall, on the first Monday in July in every year, have ready and open for the inspection of the Congregation or Religious Body which they represent, or of any Minister thereof, a detailed statement showing all rents which accrued during the preceding year, and all sums of money whatever in their hands for the use and benefit of the Congregation or Religious Body, and which were in any manner derived from the lands under their control or subject to their management, and also showing the application of any portion of the money which has been expended on behalf of the Congregation or Body.

Trustees to prepare and show statements annually.

Trustees may  
be called upon  
to account by  
Supreme Court.

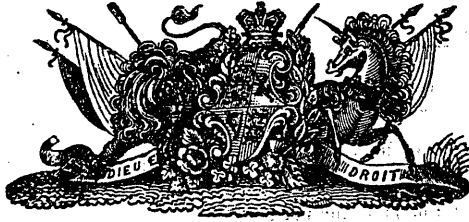
IX. The Supreme Court of Civil Justice may, in a summary manner on complaint upon oath by three members of a Congregation or Religious Body of any misfeasance or misconduct on the part of Trustees in the performance of duties authorised by this Act, call upon the Trustees to give in an account ; and may enforce the rendering of such account, the discharge of any duties and the payment of any money, so that the Congregation or Religious Body may have the benefit thereof, and the Court may compel the Trustees, in case of any misconduct, to pay the expense of the application or may award costs to the Trustees in case the application is made on grounds which the Court considers insufficient or frivolous or vexatious.

Lands in towns  
and cities not  
to be used for  
burial purposes.

X. Nothing in this Bill shall empower any Trustees of any Religious Body to occupy or use land for burial purposes within towns or cities in Vancouver's Island or its Dependencies.

Passed the Council on its return from the House of Assembly  
September 5th, 1859.

E. CRIDGE,  
Hon. Sec'y.



# VANCOUVER ISLAND COLONY.

## A N A C T

To increase the number of Representatives of the People of this Colony in the House of Assembly.

WHEREAS, the number of the inhabitants of this Colony has greatly spread and increased since the Proclamation of the 16th of June, 1856, under which the elections of the House of Assembly have been hitherto regulated, and some districts have increased in importance more than others, and it is therefore expedient, as well to give a right of representation to Districts hitherto not represented, as also to divide some of the present Electoral Districts into separate Districts.

*Be it enacted*, by the Governor, on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly.

I. So much and such parts of Victoria District as at present established, and also so much and such parts of Esquimalt and Metchosen Districts as at present established, and described in Schedule A, to this Act annexed, shall be and constitute separate Electoral Districts under the names of "Victoria Town District," and "Esquimalt Town District." The residue of Victoria District and Esquimalt and Metchosen Districts not included in the said Schedule A, shall continue to be Electoral Districts, and shall be respectively

styled "Victoria County District," and "Esquimalt and Metchoshin County District."

II. The parts of Vancouver's Island lying northward from Victoria, and included in Schedule B, to this Act annexed, shall respectively be and constitute new Electoral Districts, under the names of "Lake District," "Saanich District," and "Salt Spring Island District," including the "Settlement of Chemaynis."

III. The said several new Electoral Districts shall be respectively entitled to return the following number of members to represent them in the House of Assembly; that is to say :

Victoria Town District	-	Two Members.
Esquimalt Town District	-	One Member.
Lake District	- -	One Member.
Saanich District	- -	One Member.
Salt Spring Island District, including the Settlement of Chemaynis	} -	One Member.

IV. This Act may be referred to in all legal documents as the "Representation Act, 1859."

## SCHEDULE A.

That for the purposes of this Act, and for legal purposes generally, the said districts and towns be defined as follows :

*Esquimalt Town District.*—The tract of land abutting upon Village Bay in Esquimalt Harbor, originally sold as Suburban Lots.

*Victoria Town District.*—The tract of land included within the circumference of a circle, whose centre is that marked "Central Point" on the Official Town Map, and of which the radius is three-fourths of a mile.

## SCHEDULE B.

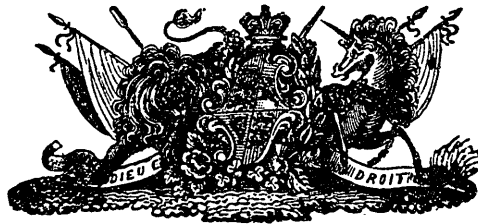
*The District Boundaries.*—Those marked on the Official Maps of the said districts.

Passed the Council Sept. 13th, 1859.

E. CRIDGE, Hon. Sec.

Passed the House of Assembly,  
October 7th, 1859.

JOSEPH PORTER, Clerk of the House.



# VANCOUVER ISLAND COLONY.

## A N A C T

### For the Protection of the Wooden Bridges in Vancouver Island and its dependencies.

**W**HEREAS, it is expedient that persons should be prevented from injuring the Wooden Bridges in Vancouver Island and its Dependencies by riding or driving over them at a pace calculated to do injury to such Bridges,

*Be it enacted*, by the Governor, on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly,

That any person who shall hereafter ride, or drive any animal or vehicle over any Wooden Bridge or

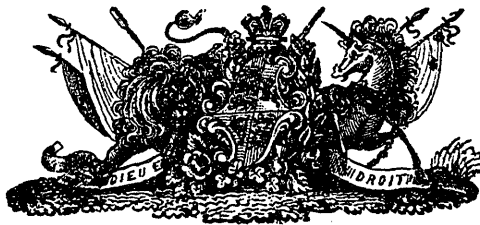
Causeway, in Vancouver Island, at a pace greater than a walking pace, shall be liable to a fine not exceeding £5; or in default of the payment of such fine, to an imprisonment for a term of not more than seven days, which fine may be recovered in a summary manner before any one of Her Majesty's Justices of the Peace.

Passed the Council 26th Oct., 1859.

E. CRIDGE, Hon. Sec.

Passed the House of Assembly Oct. 29, 1859.

JOSEPH PORTER, Clerk of the House.



## VANCOUVER ISLAND COLONY.

# AN ACT

To Remove Doubts as to the Interest of Money in the Colony of Vancouver Island, and its dependencies.

**W**HEREAS, doubts have arisen as to the legal rate of interest in the Colony, since the abolition of the Usury Laws in England, and it is expedient that such doubts should be removed,

*Therefore, be it enacted*, by the Governor on behalf of the Queen, by and with the advice and consent of the Legislative Council and House of Assembly, as follows:

That, the Act of Parliament made and passed in the seventeenth and eighteenth years of the reign of Her

Majesty Queen Victoria, chapter ninety, and entitled "An Act to repeal the laws relating to Usury, and to the enrolment of Annuities," shall be taken as having been in full force and effect in Vancouver Island and its dependencies from the date thereof.

Passed the Council Oct. 26, 1859.

E. CRIDGE, Hon. Sec.

Passed the House of Assembly, October 29, 1859.

JOSEPH PORTER, Clerk of the House.



## VANCOUVER ISLAND COLONY.

# AN ACT

### To amend the Law relating to the Representation of Vancouver Island and its dependencies.

**W**HEREAS, it is expedient to amend the Law relating to the Representation of Vancouver Island and its dependencies.

*Be it enacted*, by the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :—

#### QUALIFICATION OF VOTERS.

1. Every male British subject of full age, who shall have resided in Vancouver Island or its dependencies for a space of four calendar months, and shall at the time of election reside in Vancouver Island or its dependencies, and who shall be possessed of any one or more of the qualifications and under none of the disqualifications next hereinafter mentioned, shall be entitled to be registered and placed upon the list of voters for the purpose of voting at the election of members or a member of the House of Assembly for any electoral district in the Colony of Vancouver Island.

#### QUALIFICATIONS.

1. Being a Surgeon, or Physician, possessing a Diploma from a chartered college in Great Britain, Ireland, or the Colonies; or a Barrister, Solicitor, Attorney, Member of the Faculty of Advocates, or Writer to the Signet, qualified to practise as such in Great Britain, Ireland, or the Colonies, or being a Graduate of some chartered university or college in Great Britain, Ireland, or the Colonies, and exhibiting proof thereof.

2. Occupation at the time of, and for six calendar months next preceding the time at which he may claim to be registered in the lists of voters of real estate in this Colony, at an actual rental of £12 per annum.

3. Possession in his own right at and for a period of three calendar months next preceding the time at which he may claim to be registered upon the lists of voters of any of the following estates and interests :—

a. Twenty acres or upwards of land situate in this Colony, held for an estate of freehold.

b. An estate of freehold of the marketable value of £50, in any real estate situate in this Colony.

c. One-fourth of the profits of a farm (20 acres of which are cleared and under cultivation) held by a person, actually in charge of the farm, who shall have been so in charge for twelve calendar months immediately preceding the time at which he may claim to be registered upon the lists of voters.

## DISQUALIFICATIONS.

### ALLEGIANCE TO A FOREIGN STATE.

1. Having taken the oath of allegiance to, or become the citizen or subject of any foreign state or nation, unless three months' previously to the time at which he may claim to be registered in the lists of voters, he shall have taken the oath of allegiance to Her Majesty, her heirs, and successors, before the Chief Justice of the Supreme Court of Vancouver Island.

2. All other persons who are disqualified from voting at elections in Great Britain.

### MODE OF VOTING.

II. Persons qualified as aforesaid, shall be entitled to vote in the following districts, and in those only.

1. Where the qualification arises from being a Physician, Surgeon, Barrister, Solicitor, Attorney, Advocate, Writer to the Signet, or Graduate, the voting shall be for the district in which the voter permanently resides.

2. Where the qualification arises from occupation or the possession of an estate or interest aforesaid, the voting shall be in the district where the property is situate, in respect of which the right arises.

### NUMBER OF VOTERS.

III. Persons qualified as aforesaid, shall have as many votes as there are members to be returned for the particular district; but no person may tender more than one vote for any Candidate, nor vote more than once; and a person entitled to vote as a Physician, Surgeon, Barrister, Solicitor, Attorney, Writer to the Signet, or Graduate, shall not vote at the same election in either of the said capacities, for the same district in which he votes under a property qualification, and *vice versa*.

### OPEN VOTING.

IV. No person shall be entitled to vote by proxy, or otherwise than by openly declaring his vote.

### SAVING OF SEVERAL FRANCHISES.

V. Nothing herein contained shall abridge or take away the right of any person to vote in respect of several qualifications in several districts.

### QUALIFICATION OF MEMBERS.

VI. Every male British subject of full age, if possessed of the qualification, and under none of the disqualifications next hereinafter mentioned, shall be eligible to serve as a member in the House of Assembly for any electoral district in the Colony.

## QUALIFICATION.

### FREEHOLD OF £300 VALUE.

1. Possession in his own right of real property in the Colony for an estate of freehold to the value of £300 for three months' previous to the day of election; and having been a resident therein for three months prior to the election.



## DISQUALIFICATIONS.

### MINISTER OF A RELIGIOUS DENOMINATION.

1. Being a Minister of any religious denomination.
2. Having taken the oath of allegiance to, or become the citizen or subject of any foreign state or nation, unless six months' previously to his election he shall have taken the oath of allegiance to Her Majesty, her heirs, and successors, before the Chief Justice of the Supreme Court of Vancouver Island.

### RETURNING OFFICER OR REVISER.

3. Being at the time, or having filled the office of Returning officer or reviser of the lists of voters within the space of eighteen calendar months next proceeding the election at which he shall stand.

### BANKRUPT OR INSOLVENT.

4. Being an insolvent debtor, or an uncertificated bankrupt.

### FELONY, BRIBERY, OUTLAWRY.

5. Having been convicted of a felony, or of bribery at an election, or being outlawed in any suit.

### ABSENCE.

VII. Absence from the Colony for three months during the Session of the House, without the leave of the House for that purpose obtained, shall *ipso facto* determine the membership of the member absent, and a new Writ for the electoral district which such absent member represented shall be immediately issued for the return of a new member in the place of such late member.

VIII. Every person tendering his vote at any election of a member of the House of Assembly, shall before voting take such of the three following oaths as he may be required by some other duly qualified voter.

1. I, (A.B.) do hereby swear that I am a British subject, born at (place of birth) and that I have never taken the oath of allegiance to, or become the citizen of any foreign state or nation.

Provided always, that any voter called upon to take the oath lastly hereinbefore contained, may if he so choose in lieu thereof take the oath next hereinafter contained.

"I (A.B.) do hereby solemnly swear that I, on the \_\_\_\_\_ day of \_\_\_\_\_ before the Chief Justice of Vancouver Island, took the oath of allegiance to Her Majesty, her heirs, and successors, and have not since that day taken the oath of allegiance to, or become the citizen of any foreign state or nation."

2. I, (A.B.) do hereby swear that I am the same (A. B.) who is registered upon the list of voters for the district of (C.D.) and that I am now possessed in my own right of (statement of qualification) in respect of which I have been put upon the list of registered voters.

3. I do solemnly swear that I have not received or been promised, or to my knowledge has any other person on my behalf or for my benefit, received or been promised any money, gift, advantage, place, or consideration for, or for the purpose of influencing the vote which I now tender.

IX. Every person being a Candidate for election as a member, shall before the opening of the Poll, if called on so to do by some duly qualified voter, take the oath hereinbefore numbered 1, and also the

following oath, or if the Candidate be not present, the Returning officer shall in writing forthwith inform the Candidate, or leave at his usual place of abode, the requisition of the said elector, and if not answered, truly and definitely within twenty-four hours, his election, if it shall have taken place, shall be null and void.

I, (A.B.) do swear that I am possessed in my own right (statement of qualification.)

X. The returning officer shall be the person to administer the said oaths, and any person knowingly making any false statement in the taking thereof, or of any of them, shall be guilty of perjury.

XI. In case any voter shall decline or neglect to take the oaths hereinbefore prescribed to be taken by a voter, the vote of such voter shall not be included by the Returning officer in making his return, and shall be null and void; and in case any Candidate shall decline or neglect to take the oaths hereinbefore prescribed to be taken by a Candidate at the time aforesaid, the Returning officer shall make his return as if such Candidate had never gone to Poll, and the votes (if any,) recorded for such Candidate shall be null and void.

XII. Any member of the House of Assembly accepting or obtaining any appointment or contract from, of, or under the Government, shall *ipso facto* vacate his seat, and a new Writ shall immediately be issued for another election, but the member vacating shall be eligible for re-election.

XIII. The duties and observances of the Sheriff, Returning officer, and Poll clerks at elections in England, and the mode of conducting the elections there, shall hold good and be the same in Vancouver Island, subject always to the provisions of this Act, "the Registration of voters Act, 1859," and the "Representation Act, 1859;" excepting that there shall be one day only during which the Poll shall be taken in any district, and between the hours of eight of the clock in the morning and four of the clock in the afternoon of the same day.

XIV. The Returning officer shall make the "Return" to the Governor of Vancouver Island, or to some person duly authorized by him.

XV. The duration of the House of Assembly shall be for three years from the date of its first meeting, unless previously dissolved.

XVI. This Act may be cited for all purposes as the "Franchise Act, 1859."

Passed by the House of Assembly, Nov. 3rd, 1859.

JOSEPH PORTER, Clerk of the House.

Passed the Council, Nov. 3rd, 1859.

EDWARD CRIDGE, Hon. Sec. to the Council.

# COLONY OF VANCOUVER ISLAND.



## AN ACT

### To Provide for the Administration of Oaths in the House of Assembly, and the Production of Evidence before Committees of the same.

**W**HEREAS it is expedient for the efficient discharge of public business to provide for the administration of Oaths or affirmations to Members of the House of Assembly of Her Majesty's Colony of Vancouver Island, and to witnesses before Election Committees of the same; and whereas doubts exist as to the power of the Clerk of the said House to administer such Oaths and affirmations, and as to the power of the Chairman of Election Committees of the said House to administer such Oaths or affirmations as may be necessary for the efficient discharge of the duties of such Committees.

Therefore, Be it enacted by the Governor on Her Majesty's behalf by and with the consent of the Legislative Council and Assembly,

I. That from and after the passage of this Act, the Honorable the Speaker, the Clerk, and the Sergeant-at-Arms of the said House of Assembly, shall have and may exercise the same powers in administering Oaths or affirmations, and all other powers as are by law conferred upon, possessed and exercised by similar officers of the House of Commons of the Imperial Parliament of the United Kingdom of Great Britain and Ireland.

II. That the Chairman and Members of Election Committees shall have and may exercise and they are hereby empowered to

exercise the same powers, and to administer such or similar Oaths or affirmations as are required and allowed by law to Chairmen and Members appointed by the said House of Commons to enquire into controverted elections.

III. That the Chairmen of Select Committees of the said House of Assembly shall also have and may exercise, as such Chairmen, the same and as full powers as are given to Chairmen of Select Committees of the said House of Commons.

IV. And, That the form of the Oaths and affirmations, Warrants, Summonses, Orders and other forms necessary for the due execution of this Act shall be similar in the like cases and have the same force and effect as those used in the said House of Commons, or as nearly as circumstances will permit.

Passed the Council

the 29th day of June, A. D. 1860.

EDWD. CRIDGE,

Hon. Sec. to the Council.

Passed the House of Assembly,  
the 4th day of July, A. D., 1860.

E. BOWERS DOGGETT,

Clerk of House of Assembly.

Assented to, the 9th day of July, A. D., 1860.

JAMES DOUGLAS,

GOVERNOR.



# AN ACT

## To Extend the Provisions of the Joint Stock Companies Acts, 1856, 1857 and 1858, to Vancouver Island and its Dependencies.

**WHEREAS**, it is expedient to extend the provisions of the Joint Stock Companies Acts, 1856, 1857 and 1858, to Vancouver Island and its Dependencies;

*Be it enacted* by the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly:

I. That the said Acts shall be taken, construed and read together, and be taken and deemed to extend to Vancouver Island and its Dependencies, except as hereinafter mentioned.

II. The Eleventh Section of the Joint Stock Companies Act, 1856, shall not come into operation until the imposition of a Stamp Duty in Vancouver Island and its Dependencies.

III. The 42d Section of the said Act, 1856, shall be amended by omitting the words, "the United Kingdom," and inserting in lieu thereof the words, "Vancouver Island and its Dependencies:"

IV. That the reports to be made to, and the powers and duties vested in, and imposed upon the Board of Trade by the said Acts, shall be vested in and imposed upon the Attorney General of Vancouver Island, or the person acting in that behalf, until some other person or authority shall be nominated by the Governor for the time being of Vancouver Island and its Dependencies.

V. The Attorney General of Vancouver Island and its Dependencies, or the person acting as aforesaid, shall be the Registrar of Joint Stock Companies, until a Registrar of Joint Stock Companies of Vancouver Island and its Dependencies shall be appointed, when all the powers and duties of such Registrar shall be vested in and imposed upon him.

VI. That the expression "The Court" in the said Acts defined, shall mean the Supreme Court of Civil Justice of Vancouver Island and its Dependencies. Provided, that all powers or functions assigned to any Judge or Court of Justice in England, by any of the said Acts, shall be exercised

by the said Supreme Court; and if in any of the said Acts, different modes of procedure are required to be pursued in England, or in any other part of the United Kingdom, the procedures required in England shall, subject to the last preceding provision, be pursued in Vancouver Island and its Dependencies.

VII. That the "Official Liquidator," in the 88th Section of the said Act, particularly mentioned, shall be in every case appointed by the said Supreme Court of Civil Justice of Vancouver Island and its Dependencies.

VIII. That the several powers by the said Act vested in the Lord Chancellor of Great Britain, shall be vested in the Chief Justice of the Supreme Court of Civil Justice of Vancouver Island and its Dependencies, who may make all rules which the Lord Chancellor of Great Britain is by the said Acts empowered to make; such rules, when made, to be approved of by the Governor for the time being of Vancouver Island and its Dependencies.

IX. That any person may be appointed by the Judge of the Supreme Court of Civil Justice of Vancouver Island and its Dependencies, to act as a Special Commission to take evidence.

X. Notices, by the said Acts required to be published in the London, Edinburgh, and Dublin *Gazettes*, shall be published in the *Official Gazette* of Vancouver Island and its Dependencies.

XI. All moneys received as mentioned in Section 83 of the said Joint Stock Companies Act, 1856, shall, in lieu of the Bank therein mentioned, be paid into any Incorporated or Chartered Bank carrying on business in the Colony of Vancouver Island.

XII. The Fees specified in the Schedule hereto, shall be paid in respect of the matters therein specified, and shall be forthwith paid over by the person receiving the same into the Treasury of Vancouver Island and its Dependencies.

XIII. This Act may be cited for all purposes as

the "Vancouver Island Joint Stock Companies Act, 1860."

Passed the Council, the 31st day of July, A. D. 1860.

Passed the House of Assembly, the 20th day of August, A. D. 1860.

Received my assent, the 27th day of August, A. D. 1860.

JAMES DOUGLAS,  
Governor.

SCHEDULE.

TABLE OF FEES.

	£	s.	d.
For Registration of a Company, whose nominal capital does not exceed £500	5	0	0
And not exceeding £1,000.....	10	0	0

	£	s.	d.
For every £1,000 of nominal capital, or part of £1,000 after the first £1,000, and up to £50,000, an additional fee of	1	0	0
For every £1,000, or part of £1,000, after the first £50,000, an additional fee of	0	10	0
For Registration of any increase in the Capital of a Company, for every £1,000, or part of £1,000.....	1	0	0
For Registering any Document hereby required or authorized to be Registered other than the Memorandum of Association .....	0	10	0
For Making a Record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	0	10	0



# AN ACT

## To Improve the Streets of the Town of Victoria, and to authorize the Collection of a Tax, to be called "The Victoria Street Fund."

WHEREAS, it is necessary that certain Streets in the Town of Victoria should be repaired, and others graded and improved, at the present time, in order to afford the inhabitants thereof a convenient communication during the winter season;

Be it enacted by the Governor on Her Majesty's behalf, by and with the consent and advice of the Legislative Council and Assembly:

I. That the Executive be empowered, and is empowered to make the improvements hereinafter specified.

II. The improvements shall be such as may be considered by the Executive most requisite for opening and maintaining communications between the following points:

1st. Yates street, from Government street to Douglas street.

2d. Government street, from Johnson street to Pandora street.

3d. Pandora street, from Government street to Douglas street.

4th. Store street, from Johnson street to Fisgard street.

5th. A foot-bridge on Broad street, from Johnson street to Pandora street.

6th. Fort street, from Government street to Douglas street.

7th. Douglas street, from Pandora street to the northern limits of the town, so as to effect a juncture with the North Road.

8th. The general drainage and improvement of a road to the Springs.

9th. Humboldt street, from Douglas street to the Parsonage.

10th. Fort street, from Douglas street to Blanchard street.

III. The works on streets mentioned in the first six paragraphs of Section II, shall be completed in a thoroughly workmanlike and substantial mode, before any other such works are proceeded with, out of the money voted; and said streets shall be properly graded and macadamized twenty feet wide.

IV. A Cistern shall be constructed at the junction of Yates and Government streets, and the expense

shall be included in the moneys devoted to the opening and macadamizing the communications on Government street, between Johnson and Pandora streets.

V. The Executive shall advertise for the performance of the work to be done, or material to be furnished, in suitable proportions, three times in some newspaper or newspapers published in the Colony, asking for tenders for the same, and the lowest reliable tender shall be accepted. The contracts shall be as well for making the improvements aforesaid as for keeping permanent improvements, made under the provisions of this Act, in repair, for a space of six months from the acceptance of the contract work.

VI. The Executive shall not expend or incur a liability for more than £2,000 in the whole, for the purposes of this Act.

VII. There shall be levied and collected a rate equivalent to five-eighths of one per cent. upon the market value of all Real Estate, situate within the Electoral Limits of the Town of Victoria.

VIII. The said rate shall be levied at the same time, and in the same manner, as the tax imposed by "The Real Estate Tax Act, 1860."

IX. The term "Real Estate," shall include all buildings, whether moveable or immovable, erected on the land, and shall not include any property excepted from the provisions of the said "Real Estate Tax Act, 1860."

X. The said tax when collected shall be paid into the Treasury, and shall constitute a Special Fund, to be called the "Victoria Street Fund."

XI. The Treasurer is hereby empowered to borrow the said sum of £2,000 upon the security of the "Victoria Street Fund."

XII. The Treasurer shall borrow the said sum in such sums and from such times as may be found convenient. The moneys borrowed shall be repayable on the 31st day of May, A. D. 1861, at latest. Provided, that all moneys shall be borrowed at the lowest rate of interest at which the same can be obtained.

SCHEDULE.

FORM A.

TREASURY,  
the ..... day of .....

Received from ....., the sum of  
£..... as a loan, secured upon the "Victoria Street Fund," repayable, with interest after the rate of £..... per centum per mensem, on the ..... day of ....., to ..... or bearer.

.....  
Treasurer.

XIII. The "Victoria Street Fund" shall be specifically devoted to the purposes of this Act.

XIV. The Treasurer shall issue a certificate to every person advancing any part of the said sum of £2,000, in the Form A in the Schedule hereto contained.

Passed the House of Assembly, the 27th day of August, A. D. 1860.

Passed the Council, the 28th day of August, A. D. 1860.

Received my assent, the 28th day of August, A. D. 1860.

JAMES DOUGLAS,  
Governor.



# AN ACT

## For the Protection of the Members of Fire Companies of Victoria.

WHEREAS, it is expedient to protect the Members of the Fire Companies and other Associations, in their efforts to prevent the destruction of property by Fire in the Town of Victoria and vicinity;

Be it enacted by the Governor on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly:

I. That all Fire Companies, whose members may desire to obtain the immunities hereinafter, shall, upon passing a resolution to that effect, be entitled to register the names and regulations of their said Companies in manner hereinafter mentioned.

II. That from and after the registration aforesaid, any Member of a Fire Company registered with the Registrar of the Supreme Court of Civil Justice, shall not be liable for damage done by him to the property of any other person, in the extinction, or attempted extinction, of fire, or in the removal of any erection, edifice or building, which, regard being had to the safety of adjacent property, may be reasonably deemed expedient to remove.

III. Provided always, that in the destruction or removal of property aforesaid, the immunities hereinbefore given shall not extend to any person who shall act in such destruction or removal, contrary to or without the order of the person who, by the regulation of the Company to which he shall belong, shall be authorized to direct the actions of the said Company.

IV. Provided always, that if any person shall be nominated by the majority of the Fire Companies of Victoria, with the approval of the Governor, to

direct proceedings at a fire, the orders of such persons shall, so far as the immunities hereby conferred are concerned, be equivalent to the orders of the person who shall be authorized to direct the actions of the said Company in the last section mentioned.

V. Provided also, that the immunities aforesaid shall not extend to any person who shall, in the destruction or removal of any property aforesaid, be guilty of malice, wanton mischievousness, or gross negligence.

VI. In case of any suit or action brought by any person against any member of any Fire Company so registered as aforesaid, in respect of damage done by such member, such member may obtain the benefit of this Act by a plea, in the words and figures following, "Not Guilty," by statute, without malice, wanton mischievousness, or gross negligence.

VII. The Registration shall consist of placing upon the file of the said Court, a copy of the Regulations of the Company desiring Registration.

VIII. No fee shall be demandable for the Registration aforesaid.

IX. This Act shall continue and be in force for one year from the passing thereof; and may be cited for all purposes as the "Fireman's Protection Act, 1860."

Passed the Council, 20th July, 1860.

Passed the House of Assembly, 26th July, 1860.

Received my assent, 28th August, 1860.

JAMES DOUGLAS,  
Governor.





## AN ACT

### To Impose certain Duties in respect of certain Trades and Occupations.

**W**HEREAS, it is expedient to impose certain duties in respect of certain trades and occupations for the purpose of raising Revenue within the Colony of Vancouver Island and its Dependencies.

*Be it enacted, by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its dependencies, as follows:—*

#### *Annual Licenses.*

I. That from and after the passage of this Act all persons using the occupations following in the said colony and its dependencies, shall take out an annual license in respect of which the amounts following shall be paid in advance to and for the use of Her Majesty, her heirs and successors, as from the first day of July one thousand eight hundred and sixty.

#### *Barristers and Attorneys.*

II. Every person enrolled as a Barrister, Attorney, or Solicitor in the Supreme Court of Civil Justice of Vancouver Island, Ten pounds.

#### *Auctioneers.*

Every person using the business or occupation of an auctioneer, Ten pounds.

#### *Estate Agents.*

Every person using the business or occupation of an estate agent, Ten pounds.

#### *Bankers.*

Every person using the business or occupation of a Banker, Fifty pounds

#### *Billiard Tables and Bowling Alleys.*

Every person keeping any billiard table for public use or letting for hire any billiard table, Five pounds in respect of each table let for hire or kept for public use.

Every person letting for hire any Bowling Alley, two pounds ten shillings for each Bowling Alley.

*Traders to pay an assessed duty half yearly and make returns.*

III. All Alum makers, Apothecaries,

Blanchers, Brewers, Brokers, Brick makers, Builders, Calenderers, Carpenters, Carriers, Cattle or Sheep Salesmen, Coach proprietors, Cow keepers, Dyers, Fullers, Lime burners, Livery Stable keepers, Market gardeners, Millers, Packers, Printers, Shipowners, Shipwrights, Victuallers, Warehousemen, Wharfingers, persons using the trade or profession of a Scrivener receiving other men's monies or estates into their trust or custody; persons insuring ships or their freights or other matters against perils of the sea, and all persons using the trade of merchandize by way of Bargaining, Exchange, Bartering, Commission, Consignment, or otherwise in gross or by retail, and all persons who either for themselves or as Agents or Factors for others, seek their living by buying and selling, or buying or letting for hire, or by the workmanship of goods and commodities, shall pay to the use of Her Majesty, her heirs and successors, half yearly an assessment upon the actual amount of the money or equivalent for money which during the three calendar months next preceding the return hereinafter mentioned, shall have been received by him or any person in his behalf, in respect of Sales, Barters, or other transactions connected with his business, after the scale marked A in the Schedule hereto and to be ascertained by assessment, and shall for that purpose within fourteen days after the passage of this Act deliver to the Treasurer of Vancouver Island, at the Treasury, a return as from the first day of July last in the form marked B in the said Schedule, and shall fill in the same with a correct statement of the actual amount of the money or equivalent for money which during the three calendar months next preceding the return shall have been received by him or by any person in his behalf in re-

spect of sales, barter, or other transactions connected with his business, such return to be made of the actual and gross amount without any deduction whatsoever, and shall also deliver to the Treasurer at the Treasury aforesaid a like return on the first day of January and first day of July of every year from the date hereof.

*Saving of Farmers.*

IV. Provided that no Farmer, Grazier, Common Laborer or Workman for hire, Receiver General of the Taxes, or member of, or subscriber to any Incorporate, Commercial or Trading Company, established by Charter or Act of Parliament, shall individually be deemed as such a Trader to be liable to make any return as aforesaid.

*Three Assessors.*

V. The Governor for the time being shall within fourteen days after the passage of this Act, appoint three Assessors.

*Treasurer to make out List of Persons Returned.*

VI. The Treasurer shall, within seven days after the days appointed for the receipt of the said returns, make out a list of the persons who shall have made such returns arranging their names in alphabetical order, and stating the place of business of each said person, and the amount at which he shall have returned his said Sales, Barter, or other transactions in the form marked C in the said Schedule, and shall deliver such list to the Assessor.

*Assessors to compare returns with their information, and make Assessment Roll.*

VII. The Assessors shall within fourteen days from said delivery, compare the said list with the information which they shall have obtained, and from the result at which they may arrive, make out a list of the persons liable to pay the said licenses, specifying the amount of license payable by each person.

*Lists to be Exhibited.*

VIII. The Assessors shall, upon the completion of the said List, publish and exhibit the same at the Post office, Victoria, and at such other public and conspicuous places as they may select in every locality where any person placed on the said List may have his place of business.

*Notices of amount of Assessment to be sent to persons liable.*

IX. The Assessors, before the completion of their Rolls, shall leave at the place of abode or business of every party named thereon, and resident or domiciled, or hav-

ing a place of business within the colony, and shall transmit by post to every non-resident named thereon, whose place of abode is known to the said Assessors, a notice of the amount at which he has been assessed.

*Verification by Assessors.*

X. The Assessors shall attach to the Assessment Roll, when complete, a certificate signed by them respectively, and verified by oath or affirmation which shall be in the form following:

"I do certify that I have set down in the above Assessment Roll, all the persons liable to pay Trading licenses, and the true amount thereof, in each case according to the best of my information and judgment, and that I have not entered the name of any person whom I do not truly believe to be liable, nor omitted any person whom I believe to be so liable."

*Roll, when completed, to be delivered to the Treasurer and exhibited publicly.*

XI. The Assessors shall deliver forthwith to the Treasurer, the Assessment Roll completed, with the Certificates attached, and the Treasurer shall thereupon make a copy of every such Roll, arranged in alphabetical order of surnames, and shall cause the Sheriff to post up such copy in three convenient and public places in the District, to which such Assessment Roll belongs, and to be retained there until after the meeting of the Court of Revision.

COURT OF REVISION.

*Court of Revision to be appointed by Governor.*

XII. The Governor may appoint three persons to be the Court of Revision for each District, wherein any person is assessed.

*Meetings.*

XIII. The Court may be summoned to meet at any time by the Governor, and may adjourn from time to time, as occasion may require.

*Oaths.*

XIV. The Court, or any member thereof, may administer an oath to any party, or witness, and the wilful violation of any such oath, shall be punishable as perjury.

*Trial by Court of Complaints.*

XV. The Court shall try all complaints in regard to persons being wrongfully placed upon, or omitted from, the Assessment Roll, or being assessed at too high or too low a rate.

*Completion of Roll.*

XVI. All the duties of the Court of Revi-

sion which relate to the matters aforesaid, shall be completed, and the Roll finally revised by the Court, within fourteen days after the first meeting of the Court.

*Procedure, Notice to Assessor.*

XVII. The proceedings for the trial of complaints shall be as follows :

(1.) Any person complaining of an error, omission, undercharge, or overcharge by the Assessor, either with regard to himself or any other person on the list, shall personally, or by his agent, within fourteen days after the posting up of the Roll, give notice in writing to the Assessor, that he considers himself aggrieved, for any of the causes aforesaid.

*Notice to Person to whose Assessment an objection be made.*

(2.) If a person assessed complains of the assessment or omission of any other person, he shall, within three days after the posting of a copy of the Roll in manner aforesaid, give notice in writing to such person, and to the Assessor, of his intention to object.

*Publication of Lists of Complaints.*

(3.) The Assessors shall post up in some convenient and public place within the District, a list of all complainants against the Assessor's return, with a concise description of the matter complained against, together with an announcement of the time when the Court will be held to hear complaints.

Such list may be in the form D, in the said Schedule.

*Time of the Sitting to be Advertised.*

(4.) The Sheriff shall advertise in the *Government Gazette*, and one or more newspapers published in the colony, the time at which the Court will hold its first sitting.

(5.) The Court after hearing upon oath the complainant and the Assessor or Assessors, and any witnesses adduced by or on behalf of either of them, shall determine the matter, and confirm or amend the Roll accordingly.

*Ex parte proceedings.*

(6.) If either party fails to appear either in person or by an agent, the court may proceed ex-parte.

*Roll when revised to be final.*

XVIII. The Roll as finally passed by the Court, and certified by them as so passed, shall bind all parties concerned notwithstanding any defect or error committed in or with regard to such Roll.

*Publication of Revised Roll.*

XIX. The Assessment Roll as finally passed, shall, within seven days from its final passage, be posted up by the Sheriff, in at least six conspicuous places in each District in which any person is assessed, and shall also be published in the *Government Gazette*, and in one or more such newspapers as aforesaid.

*Payment of Assessment.*

XX. Every person assessed in the Assessment Roll as finally passed, shall within ten days after the final passage thereof, pay the amount set opposite his name in such Assessment Roll into the Treasury.

*In default Distress.*

XXI. If the amount so assessed be not paid into the Treasury within such ten days, the Sheriff shall levy the same by distress of the Goods and Chattels of the person liable to pay the same, and also the reasonable costs not exceeding five pounds, and shall pay the same into the Treasury, for the benefit of the General Revenue, less the amount of the actual expense incurred by the Sheriff.

*Penalty for not taking out license.*

XXII. Any person using any business or occupation specified in the second section of this Act, after the expiry of fourteen days from the passage of this Act, without having taken out a license as aforesaid, shall be liable to a penalty of not more than £50, to be recovered in a summary way before any Justice of the Peace. The licenses specified in this Act, shall be granted by the Treasurer.

*License to be granted to persons assessed.*

XXIII. Every person upon payment of the amount of his assessment, shall be entitled to receive a license to trade in the colony for the current half year; and any person who shall, after the expiration of the time for payment of the said assessment, use any of the businesses or occupations aforesaid, without having obtained a license for the current half year, shall be also liable to a penalty not exceeding £50, to be recovered as aforesaid.

*Licenses on persons commencing Business.*

XXIV. Any person desirous of using any of the trades or occupations specified in the 3d Section of this Act, who shall not have previously used any of such trades and

occupations, shall before doing so, take out a half yearly license at the lowest amount in the Schedule contained.

*Act not to extend to dealers by retail in liquors.*

XXV. Nothing in this Act shall be deemed to extend to any person taking out a retail liquor license, nor shall any persons who pay a wholesale liquor license be required to include in their returns, the amounts received for the sale of liquor.

*License to be taken out by persons conducting the business.*

XXVI. Whenever any person not resident in the colony shall use any business or occupation in respect whereof he is hereby rendered liable to take out any license, or

make any return as aforesaid, the return and license may be respectively made and taken out by any person conducting, managing, or being concerned in the management or conduct of such business, and wherever any person shall conduct, manage, or be concerned in the management or conduct of any business in the absence of the proprietors of such business, the person so conducting, managing, or being concerned in the management or conduct of such business, shall be liable to the penalties aforesaid, in default of payment.

*Short Title.*

XXVII. This Act may be cited as the "Trade Licenses Act, 1860."

## SCHEDULE.

### SCALE A.

Under £ 100 half yearly,.....	£1 0 0
" £ 100 to £ 250, .....	1 10 0
" £ 250 to £ 500, .....	2 0 0
" £ 500 to £1,000, .....	3 10 0
" £1,000 to £2,500, .....	6 0 0
" £2,500 to £5,000, .....	9 0 0
Above £5,000, .....	12 10 0

### FORM B.

Return of Transactions of  
Carrying on Business at

Name.	Character of Business.	Place or Places where Carried on.	Amount of Transactions during Three months ending day of	Amount of License to be paid.	

Signed

of

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**FORM C.**

List of Persons returned for Assessment under Trade Licenses Act, 1860.

Name.	Place of Business.	Amount Returned.	Amount Payable.	

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**FORM D.**Appeals to be heard at the Court of Revision, to be held at \_\_\_\_\_ on the  
day of \_\_\_\_\_ 186

Appellant.	Respecting Whom.	Matter Complained of.
A. B. C. D. L. M.	Self, E. F. N. O.	Overcharge on Returns. Names omitted. Returns undercharged.

Passed the House of Assembly, 4th day of October, 1860. Passed the Council, 12th  
October, 1860. Assented to by His Excellency the Governor, 24th October, 1860.



# AN ACT

## For Better Prohibiting the Sale or Gift of Intoxicating Liquors to the Indians.

**W**HEREAS, it is expedient to Prevent the Sale or Gift of Spirituous Liquors to Indians.

*Be it therefore enacted by the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies :*

*Act of Council of 3d August, 1854, Repealed.*

I. The Act of Council passed and published August 3d, 1854, entitled "An Act prohibiting the Gift or Sale of Intoxicating Liquors to the Indians," is hereby repealed.

*No Person to Give or Sell Liquor to Indians, or Allow the Same to be Consumed by Indians, under a Penalty of not more than £100.*

II. It shall not be lawful for any person to give, sell, or barter, intoxicating liquor to any Indian, or to permit or suffer the same to be given, sold, or bartered as aforesaid, or to be consumed by any Indian in such person's abode, shop, store, bar-room, warehouse, cellar, tent, yard, boat, canoe, or other premises; and every person so doing, shall, on conviction before any Justice of the Peace, forfeit and pay a fine of not more than One Hundred Pounds Sterling for the first offence, together with the costs of conviction.

*No Person to Keep Liquor in the Vicinity of an Indian Encampment or Gathering.*

III. It shall not be lawful for any person, whether licensed or not, who shall occupy or use any tent, cabin, canvass or brush tent, or other place in an Indian camp, or gathering of Indians; or any house, shop, store, tent, hut, cabin, shanty, enclosure, or other premises, on or within fifty yards of an Indian Reserve, or Indian gathering, (unless by special authorization in writing from the Governor), or any boat, barge, canoe, or floating cabin, stationed, whether permanently or temporarily, in the immediate vicinity of any Indian camp or gathering of Indians, to keep, have, or hold therein, any fermented, spirituous or intoxicating liquor whatsoever; and every person so doing shall, on conviction before any Justice of the Peace, be condemned to pay a fine of not more than One Hundred Pounds Sterling, together with the costs of conviction, and the confiscation of the liquors so found, and of any vessel containing them. And any house, shop, store, tent, hut, cabin, wooden shanty, boat, barge, canoe, or floating cabin, situated as aforesaid, and kept or used for the illegal traffic of liquor with Indians, shall be confiscated and subject to such

disposition thereof, as shall to the convicting Magistrate appear reasonable.

*Search Warrant May Issue.*

IV. On information being laid on oath before a Magistrate of the existence, or well founded suspicion of the existence of fermented, spirituous, or intoxicating liquors, in any of the above places or premises, it shall be lawful for such Magistrate to grant a search warrant to examine the said premises, or any of them.

*Penalty of Imprisonment on Second Conviction, or in Default of Fine.*

V. In the event of a second conviction for any offence under this Act, or in case of a first conviction if default shall be made in payment of any fine imposed by this Act, it shall be lawful immediately on conviction, for the convicting Magistrate to commit the person or persons so convicted to the common jail, with or without hard labor, for any term not less than one, nor more than twelve calendar months. And if it shall appear to such Magistrate that the goods and chattels of the person or persons so convicted are sufficient to pay the fine, it shall also be lawful for the said Magistrate to issue his warrant, causing such fine to be levied by distress and sale of said goods and chattels; and on realization of the full amount of the fine and all costs, and the costs of the distress and sale, he shall then release such person or persons from further imprisonment; but no part realization shall in any way operate as a discharge of any part of the imprisonment, whether with or without hard labor, and the produce of such part realization shall be forfeited to the Crown.

*Convictions to be Summary.*

VI. All convictions under the provisions of this Act, shall be summary.

*Moiety of Fines may be Given to Informer.*

VII. The Magistrate may award one moiety of the fines recovered hereunder to or among any informers, and the remainder shall be paid into the Treasury.

*Short Title.*

VIII. This Act may be cited for all purposes as the "Indian Liquor Act, 1860."

Passed the House of Assembly, 15th October, 1860.

Passed the Council, 30th October, 1860.

Received my assent, 2d November, 1860.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To Provide for the Repair, Improvement and Regulation of Roads in Vancouver Island and its Dependencies.

**W**HEREAS, it is necessary to provide means for the Repair, Improvement and Regulation of Roads;

*Be it enacted* by the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its dependencies, as follows:

I. That the Metchosin, Sooke and Esquimalt Districts, other than the Electoral District of Esquimalt Town, shall, for the purposes of this Act, be a "Road District" under the name of Esquimalt Road District.

II. That Victoria, Lake and Saanich Districts, (other than the Electoral District of Victoria Town,) shall, for the purposes of this Act, be a Road District, under the name of Victoria Road District.

III. That the Electoral District of the Town of Esquimalt shall, for the purposes of this Act, be a Road District in itself, under the name of Esquimalt Town.

IV. That the Districts of Cowichan, Chemainus and Nanaimo, shall, for the purposes of this Act, be each Road Districts in themselves, and be known by their present names.

V. That when any other District shall contain twenty-four landholders, or more, it shall be a Road District for the purposes of this Act, by the name of the District. The provisions of this Act shall not be enforced in any Road Districts, until there be twenty-four holders of land therein.

VI. Every male person above eighteen years of age, permanently resident, and every male or female being entitled to any interest in any real estate in any of the said Road Districts, shall perform six days labor upon the public highway of the District in which he or she shall reside, or have such interest as aforesaid, and if entitled to any interest aforesaid in more than one hundred acres, for every additional one hundred acres, or part of one hundred acres, in which he or she shall have such interest as aforesaid, two extra days labor for each additional one

hundred acres, or portion of one hundred acres; and where any person, resident within a Road District as aforesaid, shall possess a pair of working horses or oxen, and a cart, wagon or plough, he shall supply the same, together with a driver thereof, when and if required to be employed in making or improving any roads within the said Road District wherein he is so resident, for two days in every year; the services of such pair of horses, or oxen, and driver, with a cart, or wagon, or plough, to be considered as equivalent to the labor of three men on the road.

VII. All roads situate within any Road District, shall be under the control of Commissioners for such Road District.

VIII. There shall be Commissioners for each Road District appointed by the Governor, resident and property holders in the Road District for which they shall be appointed. The said Commissioners shall be named Road Commissioners, and shall take no fee or reward for their services, nor shall be interested, either directly or indirectly, in any contract in anywise connected with the making or repairing of roads; and shall be appointed by the Governor immediately after the passage of this Act; and shall hold office for two years. And the Governor shall from time to time re-appoint the same, or some other person or persons.

IX. Any person appointed as aforesaid may, within seven days from the receipt of the notification of his appointment, decline the same, and another may be appointed in his place, and so on as occasion may require.

X. All fines and penalties recovered under this Act, shall be paid into the "Road District Treasury," and be applied for the same purposes as the composition moneys payable hereunder.

XI. All members of the clerical, legal or medical professions, shall be exempted from being Road Commissioners.

XII. Any Commissioner receiving any fee or

reward, or being interested, either directly or indirectly, in any contract connected with making or improving roads as aforesaid, shall be guilty of a misdemeanor.

XIII. The Road Commissioners shall meet on a day to be fixed by the Governor, and shall thereafter hold not less than four quarterly meetings in every year, on such four days as shall be named at such first meeting; and shall cause notices to be published in several conspicuous places in their respective Road Districts, of the time and place of their said meetings; they shall cause to be kept a record of their proceedings; may adjourn from time to time; and may, out of the Road Funds, rent or hire a suitable place of meeting in their respective Districts.

XIV. The Commissioners shall choose from among themselves a Chairman, who shall have a casting vote in addition to his own, in case of the number of votes being equal. Two Commissioners shall form a quorum for the dispatch of business.

XV. The Commissioners shall appoint an Assessor and an Overseer, or Overseers, of Roads, for portions or the whole of their respective counties as convenient; and may require security from such persons before entering upon their respective duties, to the amount of not more than £100; and may require such persons to make oath faithfully to perform their respective duties without fear or favor.

XVI. The aforesaid Commissioners shall, for the purposes of this Act, and no further, possess the power and jurisdiction of Justices of the Peace.

XVII. The Chairman shall act as Treasurer of all monies received, and shall also keep all papers and documents connected with the Commission.

XVIII. The Commissioners aforesaid shall cause a copy of their accounts to be transmitted annually on the first day of June, to the Colonial Secretary, together with a statement of the work performed upon the roads; the amount paid to the various officers; the duties performed by them, and the balance of account.

XIX. The Assessor shall annually, and at such time as may be appointed by the said Commissioners, make out lists of all persons in the Road District for which he is appointed, liable to perform labor or furnish animals, or implements, stating the name, place of residence (if any), and the interest in land (specifying the quantity), of every person liable as aforesaid; together with the District or Districts in which he resides, or in which such land is situate; the number of days labor, and other requirements (if any) assessed to each individual; and the District or Districts in which the labor is to be performed. Such lists shall be published by the Assessor in the Road District to which they relate, in such places, at such times, and for such periods, as the Commissioners shall appoint. The Assessor shall further supply copies of such lists to the Commissioners.

XX. In case the owner of any land or property shall not be known, the description of the land shall be sufficient for the Assessment Roll.

XXI. Any person on the Assessment Roll complaining either that he or any other person has been

incorrectly assessed or omitted, may on some day, to be publicly notified by the Commissioners, make complaint in that behalf, and the Commissioners may correct the Assessment Roll according to circumstances, either at the requisition of any party, or of their own motion; provided that any person complaining against the assessment or non-assessment of any other party, shall give at least three days notice in writing to such party, either personally or by leaving the same notice at his usual or last known place of abode. Notice shall not be required where the party is not resident in the Colony. The lists so corrected, shall, for the year in which they are made out, be final; and the persons therein mentioned as liable, shall perform the labor, and furnish the animals and implements, at the time and place appointed by the Overseer.

XXII. Any person may appear before the Commissioners and compound by paying in cash, for a day's labor by a man, six shillings and three pence; a day's labor by a pair of horses or oxen, with a cart or wagon to each pair, twelve shillings and six pence; and such composition shall be recorded on the Assessment List.

XXIII. Any person may provide an able-bodied laborer, to be approved by the Overseer, as a substitute in his place.

XXIV. All persons supported at the public charge, and all persons incapacitated by age or infirmity, who are not possessed of sufficient means to compound, or to provide a substitute, shall be exempted from the labor required by this Act.

XXV. No obstruction shall be permitted on any highway, excepting such as shall be expressly allowed by an Act of the Legislature.

XXVI. The Overseer shall, when required by the Commissioners, examine and report to the Commissioners upon the condition of the public highways, in the District or Districts for which he is appointed; and on receiving instructions from the Commissioners, shall give three days notice to the persons on the Roll, specifying where and when they shall fulfill the requirements aforesaid; and he shall likewise see that the same are fulfilled; shall cause all obstructions as aforesaid to be removed, and report specifically on the subjects aforesaid, at a meeting of the Commissioners, to be by them appointed.

XXVII. Any person obstructing the Overseer in the execution of his duty, shall be guilty of a misdemeanor.

XXVIII. Every person notified as aforesaid, shall appear at the place appointed at 7 o'clock in the morning, to begin his labor, provided with the tools and implements specified in the Overseer's notice; and shall labor from the said hour of 7 o'clock, a. m., until 5 o'clock in the evening, doing such work as shall be directed by the Overseer or his agent, in a proper and workmanlike manner. One hour shall be allowed at mid-day for refreshment.

XXIX. If any person liable to fulfil the requirements aforesaid, shall, after having received due notice as aforesaid, fail, refuse or neglect to perform the said labor, at the time and place appointed, with the tools and implements required, or if when



present, shall decline, neglect or refuse, to labor in a proper and workmanlike manner, or to do such part as he is directed to do by the Overseer, he shall be liable to forfeit for each day's default or neglect, double the amount of labor required of him, in money, to be calculated after the rate aforesaid, as well as the expense of prosecution, to be recovered by summary process before the Commissioners; and if any person shall obstruct, or cause to be obstructed, others in the performance of their duties; or shall make remarks, or commit actions calculated to prevent or obstruct the due performance of the labor; or if any person shall appear at the place of labor intoxicated, or attempt to intoxicate others, he shall be deemed guilty of a misdemeanor, and upon conviction, which may be made in a summary way, shall be fined not more than £5, together with the costs of prosecution; or in default of payment, shall be imprisoned, with or without hard labor, for a period not exceeding fourteen days, at the discretion of the Commissioners. The Overseer of Roads being hereby empowered and required to prosecute in such cases.

XXX. When the land, in respect of which labor has to be performed, or animals or implements supplied, shall belong to a person absent from the Colony, or whose name is unknown, the land shall be primarily liable for the labor to be performed, and animals or implements supplied after the rate aforesaid; and in case of default, with interest and expenses as hereinafter mentioned. Any person purchasing such land, shall be liable to pay all such charges. In such cases, the Commissioners shall advertise the names of such defaulters three consecutive times, in three consecutive calendar months, in one or more of the newspapers circulating within the Colony: and such advertisements shall be sufficient notice, and render any person purchasing the said land liable for the amount due thereon, with the addition of fifteen per cent. annually, and the cost of advertising.

XXXI. If the name of the owner shall not be known, it shall be sufficient to describe the land by stating the number of the Section and the District in which it is situated, with a reference to the name of the original purchaser of such land from the Crown.

XXXII. If the land shall be occupied, rented or leased, the occupier or tenant shall perform, or cause to be performed, or pay for the assessed labor on behalf of the owner thereof, and deduct the same from the rent to be paid to the owner; or be entitled to recover the same from the person on whose behalf such labor shall have been performed, or money paid, together with interest after the rate of £15 per centum per annum, as and for "money paid," or "work and labor done."

XXXIII. The Commissioners may, at the expiration of three years from the date of the first assessment, cause sufficient of the said land to be sold to defray the liabilities incurred under this Act, existing thereon, together with the fifteen per cent. per annum additional, the cost of advertising, and the expenses attending the sale.

XXXIV. The purchaser shall receive from the

Commissioners a conveyance which shall vest in such purchaser an absolute legal estate in fee-simple in possession.

XXXV. The Commissioners may enter into contracts for the performance of labor, or the supply of materials in the repair of roads in their several Districts, and shall incur no liability beyond the amount payable for the current year, and no personal liability whatever, in the *bona fide* execution of their office under this Act.

XXXVI. If any provision shall be hereafter passed for the registration of the title to real estate, all charges hereunder shall, in lieu of being advertised, be registered by the Commissioners, if the same charges are capable of registration.

XXXVII. Any Overseer of Roads, upon giving one week's notice of his intention to the owner or occupier, may enter upon any unenclosed lands near the public roads, and by himself or his agents, gather, dig, or carry away any stone, gravel or sand, and cut down any trees (not being fruit trees, or reserved for ornament), or wood, which he may deem necessary for the repairing any public road; and may enter upon any lands lying near any public road in the county, and cut open or construct, or cause to be cut open or constructed, such drains and ditches as he shall deem necessary for the repairing or preservation of such road; doing as little injury by any of the means aforesaid, as possible. If any person shall feel aggrieved by the proposed action of the Overseers, he may make a complaint to any one of the Commissioners, who may, if satisfied, order the Overseer to desist therefrom. Any person stopping or obstructing, or endeavoring to stop or obstruct such Overseer or his agents, or such drains and ditches, shall forfeit the sum of £5 for each offence, to be recoverable in a summary manner before the Commissioners, at any meeting within twelve months after the act is committed.

XXXVIII. Whenever any public road or bridge shall become obstructed, or impassable, or dangerous for passage, the Overseer of Roads, on being notified thereof, shall forthwith cause the same to be remedied, and for that purpose order out such permanently resident inhabitants of his District as he may deem necessary; and all persons so ordered out shall, in default of obedience to the order and directions of the Overseer aforesaid, after having received twenty-four hours previous notice, be liable to the same penalties as if ordered out at regular seasons, and in this case all persons may compound with the Overseer for such labor at the rates aforesaid; and the labor so performed or compounded for, shall be allowed in calculating the future assessment of labor to be performed by the person performing or compounding.

XXXIX. Every Overseer shall keep an account of the number of days work performed on the public roads in his County or District, and of the persons performing the same; and also an account of his expenditure as Overseer; and such Overseer shall present his account to the Commissioners whenever called upon so to do by any of them; and any Commissioner of a County is hereby empowered to sue

in the name of the Commissioners of said County, for any monies unaccounted for by the Overseer.

XL. Any Overseer who shall neglect or refuse to perform the several duties enjoined upon him by this Act, or who shall, under any pretence whatever, give or sign any receipt or certificate for money paid or labor performed, unless the money shall have been paid or labor performed prior to the giving or signing such receipt or certificate, shall forfeit for every offence not less than £5, nor more than £10, to be recovered before any Justice of the Peace in the name of the Commissioners, in a summary way; and the said Commissioners are hereby required to sue for the same; provided that there shall be an appeal from the decision of the Justice of the Peace to the Court of Quarter Sessions.

XL1. Ten shillings a day shall be paid out of the funds of the Commissioners to every Overseer employed in the performance of his duties, whilst so employed.

XLII. Twelve shillings and sixpence a day shall be paid out of the funds last aforesaid, to the Assessor, for every day necessarily employed in the duties of his office.

XLIII. The Commissioners may employ a Clerk, and pay him out of the Commission funds twelve shillings and six pence for each meeting of the Commission at which he shall attend.

XLIV. All compositions, fines, penalties and forfeitures, payable under this Act, shall be paid into the Road District Treasury, and may be used for such of the purposes of this Act as may be deemed most requisite by the Commissioners. All labor to be performed under this Act shall be employed in the District wherein the same is assessed.

XLV. In case it shall appear to the Commissioners that certain small deviations from the present line of road would improve and render more convenient any highway, the Commissioners may order the necessary deviation; or if any person wishes the road, passing through or near his property, to be diverted, the party so wishing may apply to the Commissioners for liberty to change the route; and if it shall appear to the Commissioners that the road will not be the worse therefor, the distance not increased, and the public or private welfare not injured thereby, they may permit the party or parties at their own expense to make such deviations; provided always, that the road supplied shall be better in every respect than the old one. Any person considering any proposed deviation detrimental to himself, or to the public generally, may show cause in that behalf at the meeting of the Commissioners; but no application for a deviation in the present line of road, shall be considered by the Commissioners, excepting notice thereof shall have been published not less than ten days previously, in at least six separate and conspicuous situations in the District, and near to the spot where the alteration is proposed.

XLVI. Any person whose land may be so situated that it has no connection with any public road, may

make application to the Commissioners of his County at one of their regular meetings, for a private road leading from his premises to some convenient public road, and thereupon the said Commissioners shall appoint three disinterested resident landholders of the County, and shall issue an order directing them to meet on a day named in such order, to view and locate a private road according to the application, and to assess the damages to be sustained thereby, and after being duly sworn or affirmed faithfully to perform the duties of their appointment, and after at least three days notice given to all persons through whose lands such private road is to be located, such viewers shall proceed to locate and mark a private road, thirty feet in width, from some certain point on the premises of the applicant, to some certain point on the public road, so as to do the least possible damage to the lands through which such private road is located; and they shall also assess at the same time the damages suffered by the person or persons owning such lands; always provided that damages shall only be awarded for improvements upon the land, and not for the land itself; provided, that no such road shall, without the consent of the owner of the premises proposed to be intersected thereby, be carried within fifty yards of any dwelling house, or through any orchard or ornamental ground.

XLVII. The Commissioners may, upon the favorable report of the viewer, if the damages and costs of location shall have been paid, declare such road to be a private road, and the same shall be a private road from thenceforth, and any person aggrieved by the assessment of damages, may appeal within three months after such declaration to the Supreme Court of Civil Justice, which is hereby declared to have jurisdiction to hear and deal with such appeal; and to make rules for the mode in which such appeals shall be made and heard, as is usual in other cases.

XLVIII. In case it shall be necessary to construct roads leading through different counties, the Commissioners of those respective counties shall meet together at some time and place agreed to among themselves, and shall then and there confer and decide at what point the said road shall cross the line dividing the different counties, and may at such meetings decide any other points of importance relating to the roads connecting different counties.

XLIX. This Act shall not be applicable in any Road District where Commissioners cannot be found willing to undertake the duties of the Commission.

L. This act may be cited for all purposes as the "Road Act, 1860."

Passed the House of Assembly, 19th November, 1860, as amended by the Honorable Council.

Passed the Council this 21st November, 1860.

Received my assent, this 24th day of November, 1860.

(Signed),

JAMES DOUGLAS.



# AN ACT

## To Confirm Certain Persons in the Fee-Simple of the Real Estate which they now Hold.

**W**HEREAS many Instruments, purporting to convey Real Estate situate in Vancouver Island and its Dependencies, have been prepared by persons not conversant with the preparation of legal instruments;

And whereas, it is expedient that the title to the fee-simple of such Real Estate should be confirmed in the persons who have contracted to purchase the same in good faith, but have not obtained a valid conveyance of the same Real Estate through ignorance or want of proper legal advice, and in the persons claiming derivatively from them:

*Be it therefore enacted* by His Excellency the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies:

*Purchasers, Prior to Passage of this Act, with Imperfect Conveyances, may File a Bill in Respect of Such Imperfections.*

I. That from and after the passage of this Act, any person or persons who, prior to the passage of this Act, shall have purported to purchase Real Estate in Vancouver Island or its Dependencies, from the owner of the fee-simple thereof for a valuable consideration, and shall have obtained a conveyance thereof, defective through want of proper words of limitation, or of some formality; and any person or persons who shall be entitled derivatively to an interest so purported to have been purchased, and so originally conveyed by an instrument insufficient to pass the fee-simple, may file a Bill in the Supreme Court of Civil Justice against the original grantor, his heirs or assigns, and in the event of such Bill being filed by any person derivatively entitled as aforesaid against the original grantor, his heirs or assigns, and the intermediate holders of the same Real Estate, praying a decree, that the said Real Estate may be vested in him or them for an absolute estate in fee simple.

*Chief Justice may Grant a Rule to Show Cause.*

II. The Chief Justice may, if satisfied that the actual intention of the original grantor was to convey

the absolute legal fee-simple or the absolute equitable fee-simple in the Real Estate purported to be conveyed, order that the original grantor and all persons claiming as his heirs or assigns, shall show cause, within twelve months from the date of such order, why a decree that the legal fee-simple, or the equitable fee-simple in the said Real Estate, should not be vested by the order of the Court in the Plaintiff or Plaintiffs.

*Service of Order.*

III. The order to show cause may be served either in or out of the jurisdiction, in such cases and in such manner as the Chief Justice may, at the time of the order, direct.

*Appearance of Defendants.*

IV. Any person desirous of showing cause as aforesaid, shall enter an appearance to the said Bill, and when all the persons, parties to the said suit, shall have appeared, the cause shall be tried in the manner usual in ordinary Chancery suits.

*Hearing of the Cause.*

V. At the expiration of the said year, if any of the said parties shall have appeared, the cause may be brought on for a hearing, notwithstanding that all the parties thereto may not have appeared, but the Chief Justice may order the postponement thereof, and any inquiries, advertisements or proceedings, as he may think just.

*Proceedings in Default of Appearance.*

VI. In the event of any of the parties failing to appear as aforesaid, notice in writing shall be served on the Attorney General, or such person as he shall by some writing under his hand appoint, calling upon him to come in and defend; and the Attorney General, or such person as he shall appoint, shall conduct the case on behalf of the parties failing to appear.

*Decree.*

VII. The Chief Justice, upon the hearing of the case, shall, if satisfied by the matters contained in the instrument purporting to sell, that the intention of the original grantor was to sell the fee-simple of

such Real Estate to the original grantee thereof, and that the plaintiffs represent the estate or interest of the original grantee, and if also satisfied by the corroborative evidence of persons cognizant of the transaction, decree that the fee-simple thereof shall be vested in the plaintiffs or otherwise, either legally or equitably, according to the estate of the original grantor.

*Costs.*

VIII. The costs of all proceedings under this Act shall be borne by the Plaintiffs.

*Improper Defence.*

IX. Provided, that if in the opinion of the Chief Justice any party who shall have put in an appearance as aforesaid is a mere formal party, no costs shall be allowed to such party.

*Vexatious Defence.*

X. Provided, that if the costs of any party to the suit shall have been occasioned by a vexatious defence, the Chief Justice may direct that the whole or any part thereof, shall be disallowed in taxation.

*Short Title.*

XI. This Act may be cited for all purposes as "The Act to Cure Imperfect Titles, 1860."

Passed the House of Assembly, the 24th day of October, A. D. 1860.

Passed the Council, the 19th day of November, A. D. 1860.

Received my assent, the 10th day of December, A. D. 1860.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To Levy an Annual Tax of £1 per Centum on the Value of all Real Estate in the Colony of Vancouver Island and its Dependencies.

**W**HEREAS, it is expedient to levy an Annual Tax of £1 per centum on all the Real Estate in the Colony of Vancouver Island and its Dependencies, for the use of Her Majesty, Her Heirs and Her Successors;

*Be it enacted* by the Governor, on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly, as follows:

I. This act may be cited as the "Real Estate Tax Act, 1860."

II. The term "Real Estate," includes all buildings, whether moveable or immoveable, erected on the land and all mines, minerals, quarries and fossils, in and under the same.

III. There shall be raised, levied and collected, upon all Real Estate in the Colony of Vancouver Island and its dependencies, except as hereinafter mentioned, as from the first day of June, 1860, an Annual Tax of £1 per centum on the market value thereof, and to be paid for the use of Her Majesty, Her Heirs and Her Successors.

*First Exception*—All Real Estate vested in, or held in trust for Her Majesty, or for the public uses of the Colony, either unoccupied or occupied by some person in an official capacity.

*Second Exception*—All Property vested in any person or body corporate, in trust for, or for the use of any tribe or body of Indians.

*Third Exception*—Every place of Public Worship, Churchyard, Burying Ground, Public School House, Public Roadway, Square, Town or City Hall, Gaol, House of Correction, Lock-up House, and Public Hospital, with the Land absolutely requisite for the due enjoyment thereof.

*Fourth Exception*—All Agricultural Buildings and Improvements.

IV. The Governor shall appoint two or more Assessors to assess the value of the Real Estate for the various Town and County Districts.

V. Any one or more of the Assessors so appointed for any one District, may be also appointed Assessor

for any other District or Districts; and may be also empowered to assess any land not included in any of the said Districts.

VI. The Assessors shall, on or before the expiration of three clear days from the time of their appointment, publish a notice in the following form:

Town or District of ..... )  
To wit. )

### NOTICE.

#### REAL ESTATE ASSESSMENT.

All persons, owners of Real Estate in this District, are required to make a statement in writing, according to the Form A hereunto annexed, of what Real Estate they hold and where situated; to describe such Real Estate, giving the admeasurements thereof; to state what its actual market value is, and the value of the improvements thereon; and to deliver such statement at the Office of the Treasurer of Vancouver Island and its Dependencies, on or before the ..... day of ..... thirty days from the date of the advertisement.

#### SCHEDULE A.

Owner's Name.	Place of Residence.	Amount of Property, and Where Situated	Admeasurements.	Market Value.

VII. Each notice shall be posted up in at least seven public places in each District, for a space of

fourteen days, and shall be also published in the *Government Gazette*, and in one or more newspapers circulating in the Colony.

VIII. The Assessors shall, within six weeks from the expiry of the said thirty days, compare the statements with the information which they shall have obtained, and from the result at which they may arrive, make out a list of all Real Estate, in respect of which the said tax has to be paid, specifying the locality, nature and extent of the Real Estate, the names of the owners thereof, and the amount of the tax payable.

IX. The Assessors, before the completion of their roll, shall transmit by post to every person named thereon, whose place of abode is known to the said Assessors, a notice of the actual value at which his Real Estate has been assessed, the amount to be paid, and the day of payment.

X. The Assessors shall make and complete their Rolls in every year, between the first day of January and the first day of May, and shall attach thereto a certificate signed by them respectively, and verified by oath or affirmation, which shall be in the form following:

I do certify that I have set down in the above assessment roll all the Real Estate liable to taxation, situate in the ....., and the true market value thereof, in each case according to the best of my information and judgment; and I further certify that I have entered therein the names of all the resident householders and freeholders, and of all other freeholders and householders who have required their names to be entered thereon, with the true amount of property occupied or owned by each; and that I have not entered the name of any person whom I do not truly believe to be a householder or freeholder, or the *bona fide* occupier or owner of the property set down opposite his name, for his own use and benefit.

XI. The Assessors shall deliver to the Treasurer the assessment roll completed and added up, with the certificates and affidavits attached thereto, and shall deliver a copy of every such roll, arranged in alphabetical order of surnames, to the Sheriff, who shall post up true copies thereof in three or more convenient and public places in the District to which such assessment roll belongs, and to be maintained there until after the meeting of the Court of Revision.

#### COURT OF REVISION.

XII. The Governor may appoint five persons to be the Court of Revision for each District; three members of the Court of Revision shall be a quorum; the members may choose their own Chairman, who shall have a casting vote in case of an equality, and a majority of those present at any meeting may decide all questions.

XIII. The Court shall meet within seven days after the completion of the assessment roll, and shall continue their sittings from time to time, until the business of equalization presented to them is disposed of; and they shall complete such equalization, and deliver the roll as amended to the Treasurer, within thirty days from their first sitting.

XIV. The Court, or any member thereof, may

administer an oath to any party or witness; the wilful violation of which oath shall be punishable as perjury.

XV. The Court shall try all complaints with regard to wrongful assessments or omissions, and may amend the roll accordingly.

XVI. The proceedings for the trial of complaints, shall be as follows:

1st. Any person complaining of an error or omission in regard to himself, or being undercharged or overcharged by the Assessor, shall personally, or by his agent, within fourteen days after the posting up of the roll, give notice in writing to the Assessors, that he considers himself aggrieved for any or all of the causes aforesaid.

2d. If a person assessed thinks that any person has been assessed too low or too high, or has been wrongfully inserted on or omitted from the roll, he shall, within fourteen days after the copy of the roll has been posted in manner aforesaid, give five clear days notice to such person and to the Assessor of his intention to object, and the matter shall be decided as soon after the expiration of the said five days as shall meet the convenience of the Court.

3d. The Sheriff shall post up in some convenient and public place within the District, a list of all complainants against the assessment roll, with a concise description of the matter complained of, together with an announcement of the time when the Court will be held to hear complaints.

Such list may be in the form following:

APPEALS TO BE HEARD AT THE COURT OF REVISION, TO BE HELD AT ..... ON THE ..... DAY OF ....., 186..

Complainant.	Respecting Whom.	Matter Complained Of.
A. B.	S. F.	Overcharge on land;
C. D.	E. F.	Name omitted.

4th. The Sheriff shall also advertise in the *Government Gazette* the time at which the Court will hold its first sitting.

5th. The Court, after hearing the complainant and the Assessor or Assessors, and any witnesses adduced by or on behalf of either of them, shall determine the matter, and confirm or amend the roll accordingly.

6th. If either party fails to appear, either in person or by an agent, the Court may proceed *ex parte*.

XVII. The roll, as finally passed by the Court, and certified by them as so passed, shall bind all parties concerned, notwithstanding any defect or error committed, in or with regard to such roll.

XVIII. The assessment roll, as finally passed, shall, within seven days from its final passage, be posted up by the Sheriff in at least six conspicuous places in each District, and shall also be published in the *Government Gazette*.

XIX. The person liable to pay the assessment shall be personally liable for the amount of the said assessment.

XX. The Real Estate, in respect of which an assessment has been made, shall also be primarily liable for the amount assessed, and such liability shall be the first charge on said Real Estate.

XXI. All monies due under the provisions of this Act, shall be paid into the Treasury at Victoria.

XXII. If the amount assessed in respect of any Real Estate be not paid into the Treasury within thirty days after the date of the publication of the roll as finally passed, an amount equivalent to five per cent. upon the amount due, shall be paid, collected and levied, in addition to the amount due; and if payment be not made in sixty days from the date of publication aforesaid, the Sheriff shall levy the same by distress of the goods and chattels of the person liable to pay the same; and if such person cannot be found, or is not known, or in default of a sufficient distress, by the sale of so much of the Real Estate in respect of which such assessment continues either partially or entirely unpaid, as shall be approximately sufficient to pay the amount assessed, together with the five per cent. aforesaid.

XXIII. The Sheriff, in effecting such sale, shall select such part of such Real Estate as he may consider most advantageous to the owner of such Real Estate to be sold first, and the owner or his agent may advise with the Sheriff upon the subject.

XXIV. The Sheriff shall advertise in one of the newspapers circulating in the Colony, and shall post up in six conspicuous places in each District, wherein Real Estate is liable to be sold for non-payment of the assessment, a notice of the Real Estate liable to be sold, the hour and day upon which he proposes to sell the same, not being less than twenty-one days from the date of such notice, and the place where he proposes to conduct such sale.

XXV. Upon the day fixed for the sale aforesaid, the Sheriff shall, within two hours after the hour fixed, put the said Real Estate up to auction, and sell the same to the highest bidder.

XXVI. If, at the time appointed for the sale, no bidders appear, or bid a sum equivalent to the amount due in respect of the said assessment, and the probable costs hereinafter mentioned, the Sheriff may adjourn the sale, and so on from time to time.

XXVII. The purchaser, until the expiration of one year, shall hold the Real Estate sold for a legal estate in fee-simple, subject to the right to redeem hereinafter provided.

XXVIII. The owner of any Real Estate, which may hereafter be sold for non-payment of taxes, or his heirs or assigns, may, at any time within one year from the day of sale, redeem the estate sold, by paying to the Treasurer, for the use and benefit of such purchaser, or his legal representatives; the

sum paid by him, together with twenty per cent. thereon; and the said Treasurer's receipt shall be the evidence of the redemption.

XXIX. The certificate of the Sheriff as to the amount payable for the redemption of the Real Estate so sold as aforesaid, shall be produced and delivered to the Treasurer, as his authority to receive the said money.

XXX. From and after payment to the Treasurer of the full amount of redemption money required by this Act, the said purchaser shall cease to have any further right in or to the Real Estate in question.

XXXI. The amount so paid by the person redeeming, shall be paid over by the Treasurer on application, to the purchaser or his representatives.

XXXII. Purchasers shall not, during the said year, commit or allow waste upon the Real Estate purchased.

XXXIII. The Sheriff shall, at the expiration of the said year, if no redemption has taken place, convey such Real Estate to the purchaser, whose title shall be an absolute and indefeasible estate in fee-simple, notwithstanding any irregularity or informality in such sale, or the proceedings prior thereto or subsequent thereon.

XXXIV. The Sheriff shall defray the expenses prior to and of such sale and attendant thereon, out of the purchase money, and next the amount due in respect of said assessment, and shall pay the residue thereof into the Treasury, in trust for the person or persons to whom as Real Estate it shall belong.

XXXV. The term "agricultural improvements" shall include all improvements in or upon the land, all fences, gates, barns, stables, stiles, out-houses, and laborers' dwelling houses.

Passed the House of Assembly, the 7th day of September, 1860.

Passed the Council, the 23d day of November, 1860.

Council amendments agreed to in the House of Assembly, the 30th day of November, 1860.

Received my assent, this Tenth day of December, A. D. One Thousand Eight Hundred and Sixty

JAMES DOUGLAS,

Governor.



# AN ACT

## To amend the Scale of Fees charged for the Entrance and Clearance of Vessels; Licences to Scows, Boats, and other Craft; and Dues for Landing Permits; as well as other matters relating to the same, in the Port of Victoria, including Esquimalt.

**W**HEREAS it is expedient to amend the scale of fees charged for the Entrance and Clearance of Vessels into the Port of Victoria and Esquimalt; for the Licences to Scows, Boats and other Craft plying in the said Port; and of Landing Permits.

*Be it enacted by the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies,*

*Clearance and Entrance Fees in the Schedule A to be Levied from the passage of this Act.*

I. That from and after the passage of this Act, there shall be raised, levied, collected and paid to the Harbor-Master of Victoria, and for the use of Her Majesty, Her Heirs and Successors, in lieu of the charges heretofore made, in respect of the charges aforesaid, the Scale of Fees, upon Vessels Entering, or Departing from the Harbor of Victoria or Esquimalt, in Schedule A, to this Act annexed.

*Coasters may take out a License.*

II. All Vessels whilst employed exclusively in the Coasting or Carrying Trade between places within this Colony and either of the aforesaid Harbors, shall be exempt from the charges for Entrance and Clearance aforesaid; but the Masters of such Vessels shall report themselves to the Harbor-Master of Victoria Harbor, whenever such Vessels shall enter or depart from either of the said Harbors; and such Vessels as last aforesaid shall be liable to the Licences mentioned in Schedule B, hereunto annexed.

*Licences on Scows and Small Craft.*

III. There shall be charged upon Scows and other

Craft employed in unloading Ships, or carrying goods or passengers between the Harbors of Victoria and Esquimalt, or *vice versa*, or plying in either of the said Harbors, the Licences mentioned in Schedule C, to this Act annexed.

*Penalty for Carrying Passengers or Goods without License.*

IV. Any Vessel or Craft carrying Goods or Passengers as aforesaid, or being employed in the Coasting Trade as aforesaid, without having paid the necessary License, shall be liable to confiscation.

*Permit to be obtained before Landing.*

V. No Goods other than the produce of the Colony, and passengers' luggage, shall be landed from any Vessel in Victoria or Esquimalt, until the same and the value thereof shall have been first reported to the Harbor-Master of Victoria, and the permit to land the same shall have been received from the said Harbor-Master, or his Deputy or Deputies, and there shall be charged and paid for such Landing Permit the sum mentioned in Schedule D, to this Act annexed.

*Penalty of Landing without Permit.*

VI. Any person landing any Goods, save as aforesaid, shall be liable to a fine of not more than Fifty Pounds (£50), to be recovered by a summary process before any Justice of the Peace; and in default of payment to imprisonment, with or without hard labor, for a period not exceeding one month, and the Goods so landed may be confiscated to the use of Her Majesty, Her Heirs and Successors.

*Appropriation of Amounts Payable.*

VII. The sums arising from all the above sources



shall be paid into the Treasury of Vancouver Island, and carried to a separate fund, to be called "The Harbor Fund."

*Short Title.*

VIII. This Act may be cited as "The Victoria and Esquimalt Harbor Dues Act, 1860."

Passed the House of Assembly, the 26th day of October, A. D. 1860.

Passed the Council, the 21st day of November, A. D. 1860.

Received my assent, the 19th day of December, A. D. 1860.

JAMES DOUGLAS,  
Governor.

SCHEDULE A.

*Fees for Entrance and Clearance for Vessels entering and clearing the Ports of Victoria and Esquimalt.*

	£	s.	d.
All Vessels under 15 tons.....	0	4	2
" " Between 15 and 30 tons.....	0	6	3
" " " 30 and 50 " .....	0	8	4
" " " 50 and 100 " .....	0	12	6
" " " 100 and 200 " .....	0	18	9
" " " 200 and 300 " .....	1	5	0
" " " 300 and 400 " .....	1	13	4
" " " 400 and 500 " .....	2	1	8
" " " 500 and 600 " .....	2	5	10
" " " 600 and 700 " .....	2	10	0
" " " 700 and 800 " .....	2	14	2
" " " 800 and 900 " .....	2	18	4
" " " 900 and 1000 " .....	3	2	6
" " " 1000 and upwards.....	3	6	8

All steamers *bona fide* carrying mails, to pay half the amount of the above Scale of Fees, according to their tonnage.

SCHEDULE B.

*Half-Yearly License for Coasters.*

	£	s.	d.
Under 10 tons.....	1	0	0
Above 10 tons and under 30 tons.....	2	0	0
" 30 " " 50 tons.....	3	0	0
" 50 .....	4	0	0

SCHEDULE C.

Wherries and Skiffs plying for hire, and licenced to carry not exceeding six passengers, per quarter, One Pound.

Row Boats and Yawls plying for hire, and licenced to carry more than six passengers, and under ten tons burden, per quarter, One Pound Ten Shillings.

Lighters and Scows employed in freighting or discharging vessels, or otherwise, for hire, under ten tons burden, per quarter, Two Pounds.

Lighters and Scows exceeding ten tons burden, Two Pounds per quarter, with One Shilling additional for every ton exceeding ten tons and up to one hundred tons burden.

SCHEDULE D.

*Landing Permits.*

	£	s.	d.
For Invoices under £100 in value.....	0	4	2
" " Above £100 and under £250 in value.....	0	6	3
" " Above £250 and under £500.....	0	8	4
" " " £500 " £1000.....	0	12	6
" " " £1000.....	0	16	8



# AN ACT

## For Rendering the Administration of Justice in Minor Criminal Cases more Speedy and Certain.

**W**HEREAS, many persons charged with minor Criminal Offences, often escape from punishment, by reason of the delays now occurring in the Administration of Justice in Criminal Cases;

*Be it enacted* by the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies:

I. That from and after the passage of this Act, any Justice or Justices of the Peace in Vancouver Island, or its Dependencies, may, in lieu of committing any prisoner to be tried at Quarter Sessions for any of the offences heretofore triable at Sessions, commit such prisoner to be tried by eight men, presided over by two or more Justices of the Peace, of whom such Committing Magistrate may be one.

II. Such commitment shall, however, be made by such Justice, or Justices, in the event only of some material witness, or witnesses, deposing that he, or they, are about to leave the Colony before the day appointed for the next sitting of the Court of Quarter Sessions; provided, that the trial aforesaid shall in no case take place until after the expiration of seven clear days from the day of commitment.

III. The Justice or Justices committing, shall cause a precept to issue to the Sheriff, requiring him to empanel a Jury of fourteen (14) duly qualified men, to appear upon the day fixed for the trial or trials. Provided, that only three Jurors shall be subject to challenge by the prosecution and defence respectively.

IV. The Sheriff shall, three clear days at least previously to the day fixed for such trial or trials, summon such Jury to appear as aforesaid.

V. The Justices presiding, shall have power to inflict such fine on any Juryman, so summoned and not appearing, as he or they shall think fit, not exceeding the sum of five pounds sterling; such fine, in case of non-payment, to be recoverable by distress.

VI. The Court over which such Justices shall preside, shall be a Court of Record.

VII. An indictment shall be preferred in each case so committed for summary trial as aforesaid, but no true bill shall be required to be found upon the charge, and the prisoner shall be directly arraigned and tried on such indictment as fully as he might have been before a Court of Quarter Sessions with a true bill found.

VIII. The Justices presiding shall have the power of inflicting the same punishment as a Court of Quarter Sessions would have.

IX. This Act may be cited as "The Minor Offences Act, 1860."

Passed the House of Assembly, the 8th day of August, A. D. 1860.

Passed the Council, the 21st day of November, A. D. 1860.

Received my assent, the 19th day of December, A. D. 1860.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To Declare the Limitation of Certain Causes of Action and Suit.

**W**HEREAS, doubts have been entertained whether a cause of action which has arisen in a foreign country, between persons there resident, can be maintained in this Colony after the period has expired in which such cause of action would be maintainable in the country in which such cause of action originally arose;

*Be it therefore enacted* by the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver's Island and its Dependencies:

*Foreign Statutes of Limitation to be a Sufficient Defence in Certain Causes.*

I. That in case any suit or action shall be hereafter instituted in this Colony against any person here resident, in respect of a cause of action or suit which has arisen between such person and some other person in a foreign country, wherein the person so sued shall have been resident at the time when such cause of action or suit shall have first arisen, such suit or action shall not be maintained in any Court of Civil Jurisdiction in this Colony, if the remedy thereon in such foreign country

is barred by any statute or enactment for the limitation of actions existing in such foreign country.

*Printed Copy to be Prima Facie Evidence.*

II. Any printed copy, purporting to be an authorized copy of any such statute or enactment, shall be *prima facie* evidence of the statute or enactment of which it purports to be an authorized copy.

*Form of Plea.*

III. Any defendant may obtain the benefit of this enactment by a plea in the form following:

"And for a (1st, 2d,) plea to the whole, or any particular count of the declaration or suit, the defendant, ....., says that the cause of action, or suit, is barred by the law of (name of the country,) in which country the said cause of action or suit first arose."

IV. This Act may be cited as the "Limitation of Foreign Actions Act, 1860."

Passed the House of Assembly, 24th October, 1860.

Passed the Council, 19th November, 1860.

Received my assent, 19th December, 1860.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To Amend the "Registration of Voters Act, 1859."

**WHEREAS**, it is expedient to form Annual Lists of Voters for the Election of Members to serve in the House of Assembly;

And whereas, an Act was passed on the seventh day of October, A. D. 1859, and received His Excellency the Governor's sanction the twenty-fourth day of October, A. D. 1859, entitled "An Act to make provisions for the Registration of Voters, and for other purposes in relation thereto;"

And whereas, the said recited Act does not empower the Sheriff to form Annual Lists of Voters, as is therein required to be made and formed immediately after the passing of the said Act;

*Be it therefore enacted* by His Excellency the Governor, on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and House of Assembly of Vancouver Island and its Dependencies:

I. The notice numbered one (1) in Schedule D, in the "Registration of Voters' Act, 1859," is hereby repealed; and the notice number one (1) in the Schedule hereto, is placed in its stead.

II. The notice numbered one (1) in the Schedule hereto, shall be published on the first day of January in each year, and the steps (other than the formation of the lists) which are provided by the said Act, shall be taken within the times therein mentioned.

III. It shall be the duty of the Sheriff of Vancouver Island, on and after the twenty-eighth day of January in each and every year, to form the Lists of Voters which he is required to do by Section III. of the said Act, and he shall annually comply, *mutatis mutandis*, with all the other provisions of the said Act.

IV. The revised Lists shall continue in force during the year for which they are made, and until the new Lists are completed.

V. The Lists at present in use shall be and con-

tinue in force until the new and revised Lists be completed under this Act.

VI. This Act may be cited as "The Annual Registration of Voters Act, 1860."

Passed the House of Assembly, the 6th day of December, A. D. 1860.

Passed the Council, the 12th day of December, A. D. 1860.

Received my assent, the 19th day of December, A. D. 1860.

JAMES DOUGLAS,  
Governor.

### SCHEDULE.

I hereby give notice that all persons entitled to vote for the Election of Members to serve in the House of Assembly, in respect of property or other qualification, within the Electoral District of .....; whose names are not in the List of Voters now in force for such District, or whose qualifications are different from those for which they appear on such list, are hereby required to deliver or transmit to me at ....., on or before the ..... day of ....., a claim in writing, containing their christian name and surname at full length, their place of abode, the nature of their qualification, the name of the street, town, or other like place, wherein the property in respect of which they claim to vote is situated, and each of such claimants must, at the same time, pay to me the sum of four shillings and two pence, and all such persons omitting so to deliver or transmit their claim, or make such payment, will be excluded from the List of Voters for said Electoral District.

(Signed,) A. B.,  
Sheriff of Vancouver Island.



# AN ACT

## To Incorporate the "Victoria Gas Company."

WHEREAS, an Association, under the name of the "Victoria Gas Company," has been formed for the purpose of furnishing Gas for the use and consumption of the Town and Inhabitants of Victoria, Vancouver Island; and, whereas, the Members of the said Association have formed themselves into a Joint Stock Company, with limited liability, under the provisions of the Vancouver Island Joint Stock Companies Act, 1860; and, whereas, it is expedient to confer upon the said Company the powers and privileges hereinafter contained;

*Be it therefore enacted* by the Governor, on behalf of Her Majesty, by and with the consent and advice of the Legislative Council and Assembly of the Colony of Vancouver Island and its Dependencies, as follows:

I. That the Buildings and Erections necessary and proper for the manufacture of Gas by the Company, shall be erected and built on the Lot marked 1548, on the official plan of the Town of Victoria.

II. The said Company, subject to the provisions hereinafter contained, shall have the exclusive right, liberty and privilege of selling Gas in the Town of Victoria, and laying down, relaying and connecting, disconnecting and repairing, all pipes, along, through, under and over the streets, alleys, grounds and thoroughfares, of the said Town, that may be necessary for supplying Gas to the consumers thereof, for the term of five years from the final passage of this Act.

III. The Company shall, within one year from the passage of this Act, unavoidable casualties of the sea and fire not preventing, establish Gas Works and Buildings adequate to the supply of the Town of Victoria, and lay not less than five thousand feet of mains, of an adequate diameter and supply therefrom to all persons as hereinafter mentioned, an adequate amount of Gas, of good quality, at the house, shop, establishment or residence, of the person requiring the same.

IV. The Company shall in no case charge more for the gas they supply than one pound ten shillings

per thousand cubic feet of gas, and shall supply as much gas as may be required for lighting the streets of Victoria, within fifty feet of any main laid by the Company, at a price not exceeding £1 5s. 0d. per thousand cubic feet.

V. The Company shall, subject to the provisions hereinafter contained, at their own expense, introduce into and through the walls or enclosure of the house, shop, establishment or residence, of any person requiring the same, a proper service-pipe with stop cock, and furnish a gas meter, if required, for accurately measuring the supply of gas to the person requiring the same, at a fair market price, not exceeding the sum of five pounds ten shillings, and shall, during the period of the exclusive privilege hereby granted, keep such service-pipe and gas meter in proper order and repair; provided, that it shall not be compulsory on the Company to furnish or introduce the same as aforesaid, into any shop, house, establishment or residence, at a distance of more than fifty feet from any of their mains.

VI. Provided that any person desiring a supply of gas, may, if the place wherein such gas is required be distant more than (50) fifty feet from any main, require the Company to supply such service-pipe, stop cock and meter, for the price above mentioned, in addition to a sum not exceeding eight shillings and four pence a foot on each foot of the distance over and above the said (50) fifty feet.

VII. The Company may, under the superintendance and subject to the control of the Surveyor General of the Colony, or of the proper officer having the management of the streets and bridges within the Town of Victoria aforesaid; open and break up the soil and pavement, and any sewers, drains or tunnels, within or under such streets and bridges, and lay down and place within the same limits, pipes, conduits, service-pipes and other works, and from time to time repair, alter or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas, and for the purposes aforesaid may remove and raise all earth and materials in and under such streets and

bridges; and they may in such streets, erect any pillars, lamps and other works, and do all other acts, which the Company shall, from time to time, deem necessary for supplying gas to the inhabitants within the limits of the said Town, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

VIII. Nothing herein contained shall authorize or empower the Company to lay down or place any pipe, or other works, into, through, or against any building or any land, not dedicated to public use, without the consent of the owners or occupiers thereof, except that the consent of the occupier or tenant under a term of not less than one year, and of the immediate landlord of such tenant, shall be sufficient authority to the Company, and upon obtaining such consent, the Company is hereby empowered to lay down or place any pipe, or other works, into, or through or against any building, or in any such land occupied or owned by such tenant or landlord, notwithstanding that the consent of other persons interested in the premises has not been obtained.

IX. Before the Company proceed to open or break up any street, bridge, sewer, drain or tunnel, they shall give to the Surveyor General, or other person under whose control or management the same may be, notice in writing of their intention to open or break up the same, not less than three clear days, before beginning such work, excepting in cases of emergency, arising from defects in any of the pipes or other works, and then as soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

X. When the Company open or break up the road or pavement of any street or bridge, or any sewer, drain or tunnel, they shall, with all convenient speed, complete the work for which the same shall be broken up, and shall fill in the ground, and reinstate and make good the road, or pavement, or the sewer, drain or tunnel, so opened or broken up, and carry the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be opened or broken up, cause the same to be fenced and guarded; and shall cause a light, sufficient for the warning of passengers, to be set up and maintained, against or near such road or pavement, where the same shall be opened or broken up, every night during which the same shall be continued open or broken up, and shall keep the road or pavement, which has been so broken up, in good repair for three months after properly replacing the same, and for such further time, if any, not being

more than twelve months in the whole, as the soil so broken up shall continue to subside.

XI. The Company may, from time to time, enter into any contract with any person or corporation for lighting or supplying with gas, any public or private building, or the streets of the said Town, or for providing any person with pipes, burners, meters and lamps, and for the repair thereof, and the Company may, save as hereinbefore mentioned, let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings within any building for gas for such remuneration in money as shall be agreed upon between the Company and any person or corporation to whom the same may be so let.

XII. The Clerk, Engineer or other officer duly appointed for the purpose by the Company, may at all reasonable times enter any building or place lighted with gas, supplied by the Company, in order to inspect the meter fittings and works for regulating the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied. Provided, that the Company shall publicly-exhibit and keep exhibited in their office the names of all persons appointed to enter and inspect as aforesaid.

XIII. If any person supplied with gas by virtue of this Act, neglects to pay the rent due for the same to the Company, the Company may stop the gas from entering the premises of such person, by cutting off the service-pipe, or by such means as the Company shall think fit, and recover the rent due from such person, together with the expense of cutting off the gas, and the cost of recovering the rent; and in such cases, the Company, their Agents or Workmen, after giving twenty-four hours previous notice to the occupier, may enter into any such house, building or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works, the property of the Company, but without prejudice to the rights of any person whose property is damaged by removal aforesaid.

XIV. This Act may be quoted as the "Victoria Gas Company's Act, 1860."

Read a third time, and passed the House of Assembly, 29th November, 1860.

Passed with amendments, 10th December, 1860.

As amended, passed the Council, 12th December, 1860.

Received my assent, this 19th day of December, A. D. 1860.

JAMES DOUGLAS.



# AN ACT

## To Confirm Certain Titles to Real Property in Vancouver Island.

**W**HEREAS, doubts have been entertained whether the Conveyances of Real Estate in Vancouver Island and its Dependencies, heretofore executed on behalf of the Hudson's Bay Company, under and by virtue of Letters or Powers of Attorney under the seal of the said Company, have, in fact, conveyed the Legal Estate to the Grantees thereunder, and it is expedient to remove such doubts;

*Be it therefore enacted* by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and House of Assembly of Vancouver Island and its Dependencies:

That all Conveyances, Grants, and other assurances, heretofore made on behalf of the Hudson's Bay Company, by James Douglas and John Work, and by Alexander Grant Dallas and John Work and

Dugald MacTavish, or by either or one of them, shall be deemed and taken to have conveyed to the Grantee or Grantees therein named the Legal Estate in the hereditaments thereby purported to have been conveyed.

This Act may be cited as the "Act for Confirming Titles from the Hudson's Bay Company, 1860."

Passed the Council, the 5th day of December, A. D. 1860.

Passed the House of Assembly, the 13th day of December, A. D. 1860.

Received my assent, the 19th day of December, A. D. 1860.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To facilitate the Transfer of Real Estate, and to provide for the Registration of Titles.

**W**HEREAS it is expedient to establish a Registry of Titles and to facilitate the transfer of Real Estate.

Be it enacted by His Excellency the Governor, on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its dependencies, and by authority of the same, as follows:

### Short Title.

1. This Act may be cited for all purposes as the "Land Registry Act, 1860."

### Establishment of a Registry

2. From and after the passage of this Act, there shall be established in Victoria an office for the Registration of Titles affecting Real Estate in the Colony of Vancouver Island and its Dependencies, which shall be styled the "Land Registry Office."

### Appointment and qualification of Registrar General.

3. His Excellency the Governor shall, in Her Majesty's behalf, by Letters Patent, under the Public Seal of the Colony, appoint from time to time a proper person to perform the duties of the said office, and such person shall be a Barrister or Solicitor, admitted to practice as such in the Supreme Court of Civil Justice of Vancouver Island, and shall

be styled the "Registrar General of Titles affecting Real Estate in Vancouver Island and its Dependencies," and every such Registrar shall hold his office during Her Majesty's pleasure.

4. Every Registrar to be appointed as aforesaid, shall give security for the due performance of his duty in his office, in such manner and to such amount as the Governor shall deem fit.

5. It shall be lawful for the Governor to assign to the Registrar a salary not exceeding the yearly sum of Four Hundred Pounds.

### Oath to be taken by Registrar General.

6. The following oath shall be taken before the Chief Justice by the Registrar General before entering upon the execution of his office. "I, A. B., do solemnly swear, that I will faithfully and to the best of my ability, execute the office and duties of Registrar General of Titles affecting Real Estate in Vancouver Island and its Dependencies, according to the provisions of the 'Land Registry Act, 1860;' so help me God." And it shall not be lawful for any Registrar appointed under this act to practice as a Barrister or Solicitor before any Court in the Colony during his continuance in office as Registrar.



Authority for Registrar to require the production and to inspect documents for Registration or Cancellation of Registration. He may administer oaths or require declarations.

7. It shall be lawful for the Registrar to exercise the following powers (that is to say): He may require any person desiring to effect any Registration or cancellation of Registration to produce, any grant, certificate of title, conveyance, bill of sale, mortgage, deed, lease, will, or any other instrument in his possession or within his control affecting such land or the title thereto; and he may for the purposes of this act, administer oaths, or in lieu of administering an oath, may require any person examined by him to make and subscribe a declaration of the truth of the statement made by him in his examination.

Further powers of Registrar General to correct errors, and supply omissions of Registration.

And it shall further be lawful for the Registrar, upon such evidence as shall appear to him sufficient, in that behalf, to correct errors in entries made, and supply entries omitted to be made under the Provisions of this Act. Provided always that in the correction of any such entry, he shall not erase or render illegible the original entry, and shall in correcting or supplying any entry, affix his initials thereto, and the date of such correction, and correction so made and omission so supplied, shall have the like validity and effect as if such error had not been made, or such entry omitted, except as regards any registration, or filing which may have been entered in any of the Register Books previously to the actual time of correcting the entry, or supplying the omitted entry.

MODE AND EFFECT OF REGISTRATION.

Registration by applicant of a legal fee simple in possession in a book to be called the "Absolute Fees Book," &c., &c.

8. Every person claiming in his own right to be the legal owner in fee simple in possession of Real Estate, may apply to the Registrar for registration in the form marked A in the first Schedule hereunto annexed, and may produce evidence to the Registrar of his title thereto, and the Registrar shall, upon being satisfied that a *prima facie* title has been established by the applicant, register in

a book to be kept for that purpose, and to be called the "Absolute Fees Book," the name of such person in the form marked B. in the Schedule hereto, and shall also register in another book to be also kept in that behalf, and to be called the "Absolute Fees Parcels Book," a description of the land to which the title relates, in the form marked C in the said first Schedule.

Registration of lesser or equitable estates where the absolute fee is already registered in a Book to be called the "Charge Book," &c.

9. Every person claiming any other or lesser estate than the absolute fee or any equitable interest whatever in Real Estate (other than a leasehold interest in possession for a term not exceeding one year) whereof the title to the absolute fee has been registered, as last mentioned, may apply to the Registrar for registration in the form marked D in the first Schedule hereunto annexed, and may produce to the Registrar evidence of his title to such lesser estate, or equitable interest, and the Registrar shall, upon being satisfied that a *prima facie* title has been established by the applicant, enter in a book, to be kept for that purpose, and to be called the "Charge Book," a charge in the form marked E in the said first Schedule, and shall also register in another book, to be also kept in that behalf, and to be called the "Charge Parcels Book," a description of the land to which the charge relates in the form marked F in the said first Schedule.

The Registrar shall also enter a cross reference in the "Absolute Fees Book" to the Folio of the Charge Book in which such charge is registered, and may also enter a charge on behalf of any person who shall be under the disability of Infancy, Coverture, Lunacy, Unsoundness of mind, or absence from the colony, or on behalf of Her Majesty, Her Heirs and Successors.

10. Every person obtaining or who shall have obtained any mortgage, incumbrance, or judgment upon, over, or against any unregistered real estate may register a charge against such unregistered real estate in a book to be kept for that purpose, and to be called the "Supplemental Charge Book,"

such charge to be obtained upon a like application, and to be registered in a like manner as hereinbefore prescribed for the registration of charges against registered absolute fees.

11. The Registrar shall, upon registration of a "charge" in manner lastly hereinbefore mentioned, register in a book to be kept for that purpose, and to be called the "Supplemental Charge Parcels Book," a description of the land in like manner as hereinbefore prescribed for the Registration of Charges against registered Absolute fees.

At whose instance the Registrar may effect the Registration of an absolute fee.

12. The Registrar may effect the registration of the absolute fee, as well at the instance of any person showing a *prima facie* title to the absolute fee as aforesaid, as at the instance of the several persons who together are entitled to the complement of the absolute fee, and where two or more are jointly interested as joint tenants or tenants in common, the absolute fee shall be registered in their joint names. Where two or more are interested in distinct estates or interests, the first owner of an estate of inheritance shall be registered as the owner of the absolute fee, and the interests or estates of the others or other, shall be registered by means of a charge or charges.

13. If upon production of the evidence of title to the Registrar aforesaid, it shall appear that any person or class of persons, are entitled to any lesser or equitable estate or interest in the real estate in respect of which registration is sought, the Registrar may, with the concurrence of the person or persons applying for registration, and with the concurrence of such other persons as he may require, register the estate of the applicant or applicants, and of the other or others entitled to such lesser or equitable estate or interest if such estates and interests collectively make up the full complement of the absolute fee, and if he is satisfied that the person, appearing so interested and not concurring in the application are either not in esse or are minors, or under cover-

In addition to the charge so registered.

14. Provided that the Registrar shall, in addition to the charge registered by him on behalf of such person or class of persons, add the words at the foot of such charge, "On behalf of (a person or class of persons, as the case may be) under disabilities, as appears by the Title or Charge Registered."

A leasehold interest not to affect a legal ownership in fee simple in possession of Real Estate.

15. A person shall, for the purpose of this Act, be deemed the legal owner in fee simple in possession of Real Estate, notwithstanding any leasehold interest in possession subsisting therein for a term not exceeding one year.

16. If any person shall have purchased real estate from the Government or the Hudson's Bay Co. as grantees of Vancouver Island, and shall have paid an instalment thereon, but shall not have received a conveyance thereof, registration of the absolute fee may be effected, in his or her name, with the concurrence of the Surveyor General of Vancouver Island and its Dependencies, in the capacity of agent of the said Hudson's Bay Company where such agency existed at the time of the purchase, and the amount of the unpaid purchase money shall be secured by the registration of a charge to that amount in the name of the said Surveyor General for the time being, and the fees payable in respect of the registration of such charge shall be borne by the applicant for registration.

17. The said Surveyor General shall have power, upon the receipt of the whole of the instalments, to give a discharge for the same, under his hand and seal, which shall be sufficient authority for the Registrar to enter up satisfaction for the said instalments, and to cancel the charge.

Issue of certificates and retention of duplicate of the same on registration of absolute fee.

18. The Registrar shall keep a book of certificates of absolute fees in duplicate in the form marked G in the said first schedule, and upon the registration of any absolute fee shall fill up one of the certificates and issue the same to the person who shall have effected registration, and shall fill up the other of the

said certificates, and shall retain the same in the said book.

The persons registering for any purpose shall declare their names and place of abode in the form II.

19. Every person who shall effect registration either of an absolute fee or a charge, or shall file an 'issue' or 'contest,' shall fill up the form marked II in the said first schedule with the particulars therein referred to, and the place in such form mentioned shall be some place within the Colony of Vancouver Island.

Five years' registration renders registered titles indefeasible.

20. Every person, whether the original applicant for registration or the grantee under a duly registered train of transfers, who shall continue registered as the owner of an absolute fee without any issue remaining registered and unsatisfied against the same, as hereinafter mentioned, for the space of five years, shall, subject to the rights of any person who shall have registered a charge against the same, hold the real estate in respect of which he is so registered for an absolute and indefeasible estate of fee simple against all the world, other than a tenant in possession under a term not exceeding one year.

Priority in point of registration gives priority of title where the same land is registered in favor of two or more persons.

21. Provided always, that when the names of two or more persons appear on the register as sole owners of an absolute fee in the same land, the person who, either as the person originally registering, or by a regular train of duly registered transfers, first completes the aforesaid term of five years of registration without any issue remaining unsatisfied against the land in respect of which he appears, such registered owner of the absolute fee, shall, subject to any rights existing by virtue of any charge, hold the real estate, in respect of which he is so registered, for an absolute and indefeasible estate in fee simple, as well against the other registered title to the same land as against every person claiming against the absolute fee, other than such tenant for less than one year as aforesaid.

Five years' registration of a charge renders the interests thereunder indefeasible.

22. Every person, whether the person originally registering a charge, or the transferee of such charge, under a duly registered train of transfers, who shall continue registered as the owner of such charge for the space of five years without an issue remaining unsatisfied against the same, shall, subject to the rights of any person who shall have registered a charge against such charge, be deemed absolutely and indefeasibly entitled to the interest in respect of which such charge shall have been registered; Provided that nothing herein contained shall render any charge registered in the "Supplemental Charge Book" absolute or indefeasible.

Priority of time between Charges creates priority of title.

23. When two or more charges appear entered on the register, affecting the same land, the charges shall as between themselves, have priority, according to the dates at which the applications, respectively, were made, and not according to the dates of the creation of the estates or interests.

No purchase for value to be affected by any notice not appearing on the Register.

24. No purchaser for valuable consideration of any registered real estate, or registered interest in real estate, shall be affected by any notice express, implied, or constructive of any unregistered title, interest, or disposition affecting such real estate, other than a leasehold interest in possession for a term not exceeding one year, any rule of law or equity notwithstanding.

Notice conveyed by charge.

25. The registration of a charge shall give notice to every person dealing with the Real Estate against which such charge has been registered, of the estate or interest in respect of which such charge has been registered.

Mode of setting aside registered titles.

26. Any person, before an absolute fee becomes indefeasible, under the provisions of this Act, may set aside the same, either partially or entirely, by filing an "issue" in the form in the said first schedule marked I, and

by obtaining or a decree taking such steps in that behalf, as are hereinafter prescribed.

Mode of setting aside registered charges by the owner of an absolute fee.

27. Any person being a registered owner of an absolute fee against which a charge may have been registered, may, before the same charge has become indefeasible, under the provisions of this Act, set the same aside by filing notice of "contest" and by obtaining a decree, or by taking such other steps as are hereinafter prescribed.

Mode of setting aside registered charges by any person not the owner of an absolute fee.

28. Any person other than a registered owner of an absolute fee seeking to set aside, either partially or entirely, any registered charge, may do so by filing an "issue" in the form marked J in the said first schedule.

29. The Registrar shall endorse a memorandum of every "issue" or notice of "contest" filed against the estate or interest of any registered owner, on the page of the "absolute fee book" or "charge book," as the case may be, in which such estate or interest is registered.

30. The husband of any female registered owner of an absolute fee shall be entitled to be registered as co-owner with his wife, but he shall be described on the register as co-owner in right of his wife, and on his death the original registry of the wife, with a change, if necessary, in the name, shall revive and confer the same rights as if her husband had never been registered as co-owner with her.

31. Where the absolute fee in Real Estate is registered in the joint names of husband and wife no dealings with such real estate shall take place until the wife has been examined before the Chief Justice, apart from her husband, and has assented to such dealings after full explanation of her rights in the said real estate, and the effect of the proposed dealing.

Endorsements by Registrar on the instruments of title.

32. Whenever registration of an absolute fee or of a charge shall be applied for, the Registrar shall, upon effecting such registra-

tion, endorse upon the instrument, or instruments (if any) produced as evidence of the right upon which such application is founded, a memorandum, in the form marked K in the said first schedule.

Saving of the powers of Guardians and Committees.

33. Save as aforesaid, the powers and authorities of the guardian of any minor, or committee of any lunatic, or person of unsound mind, shall in no-wise be altered or abridged in consequence of any registration.

#### CONTEST.

Any registered owner may try the validity of any charge or issue by giving notice of Contest to the Registrar.

34. Any person who is duly registered in respect of any interest in land, whether as owner of an absolute fee or by means of a charge against which interest a charge or issue respectively shall have been registered or filed, may give notice of Contest to the Registrar in the form marked L in the schedule to this Act annexed.

Registrar after receiving notice of contest to make the adverse party bring the question to immediate trial.

35. The Registrar shall, within twenty-one days after receiving the said notice of contest' or 'issue' as aforesaid, by a letter under his hand, directed to the address mentioned in the application for registration of the 'charge' or 'issue,' and by an advertisement in the *Government Gazette*, call upon the person in whose name the said charge or issue is registered or filed, to file a bill or bring an action as the case may require, within a period of not more than two months, to be stated in such letter and advertisement respectively, in order to determine the right asserted by the person who shall have registered such charge or issue.

The person called upon to try the question to give security for costs and speedy trial.

36. The person so called upon to file such bill or bring such action shall, within the time specified, give to the Registrar satisfactory security to such amount, not exceeding £100, as the Registrar may think fit, for the payment of the costs (if any) to the opposite party, occasioned by such bill or action, and for the speedy and expeditious trial of the same. A time shall be specified for the commence-

ment of such action or filing such bill by the Registrar, in the instrument effecting such security and in default thereof the person giving notice may apply to the Registrar, at the expiry of the specified time aforesaid, in the form marked M, in the said first schedule that the charge or issue may be cancelled, or taken off the file of the register, or such other order made as the justice of the case may require.

Charges and issues may be filed in respect of future interests.

37. Any charge or issue may be registered or filed as well in respect of a present and vested right as of a future or contingent interest.

Questions may be tried, although the question at issue is of an Executory or contingent nature.

38. Every person who shall have registered or filed a charge or issue in respect of which notice of contest has been given, as above mentioned, may try the question raised by such contest, notwithstanding that the interests in respect of which such charge or issue shall have been registered or filed are of a contingent or executory nature, any rule of law or equity notwithstanding, and the Chief Justice is hereby empowered to make such decree, and to limit the same to a mere declaration of right, if necessary, or to order the Registrar to do such act as the nature of the case may require.

Publication of lists of Registrations, charges, transfers, and issues.

39. A list of the original registrations of absolute fees, transfers of the same, original charges, transfers thereof, and original issues shall be, from time to time, as the same are registered and filed respectively, publicly exhibited on the walls of the office of the Registrar, for the space of six months next after registration and filing.

Cancellation of satisfied charges and issues.

40. When any charge, notice, of 'contest' or issue has been satisfied, discharged, or vacated the Registrar, shall, upon satisfactory proof being given of the same, cancel the entry of such charge, notice of 'contest,' or 'issue,' by writing across the entry thereof the words 'cancelled, the—— day of ——,' and shall enter a memorandum of such cancellation, and of the particulars thereof, in a book to be

called the 'Satisfaction Book,' to be kept for that purpose.

Memorandum of Cancellation.

41. Such memorandum as aforesaid shall be in the form marked N in the said first schedule, and upon such cancellation and entry being made the interest in respect of which such charge shall have been registered, shall, as against all persons purchasing for value, the interest against which such charge or issue shall have been registered or filed, be deemed to be discharged, and in those cases where a reconveyance would have been otherwise necessary such memorandum shall operate as a reconveyance, and the charge or issue, respectively, shall no longer affect, as against such purchaser, the land in respect of which such charge or issue was registered or filed, and such charge or issue shall not affect the interest of the person against which the same was originally registered or filed, after the expiry of five years from such discharge except in the case of fraud, hereinafter mentioned.

Persons claiming to be entitled to any lesser interest to obtain an order for registration from Court.

42. Any person claiming to be entitled to the absolute fee, and any person claiming to be entitled to any lesser equitable or other estate whatever, whether vested or contingent, under any will or by virtue of a descent or devolution in law, in any real estate in respect of which registration has been effected, may present a petition to the Chief Justice in a summary way, praying that the Registrar may be ordered to make a transfer or file a charge as the nature of the case may require.

"Lis Pendens" may be registered.

43. Any person or persons may register "*lis pendens*" against any absolute fee or lesser or equitable estate by means of a charge.

Persons claiming to be entitled to absolute fee to petition for registration of estate and the court to make order thereon and regulate security therefor.

44. Any person entitled to an absolute fee, under or by virtue of any will, or by virtue of any descent or other devolution in law, in any unregistered real estate may present a petition also in a summary way, to the Chief Justice praying that the Registrar be ordered to effect registration of the same estate.

The Chief Justice to make orders in certain cases and on such terms and requiring such security as he may think proper.

45. The Chief Justice, may, in any of the cases mentioned in the two preceding sections, upon such evidence as may be deemed satisfactory, make such order as shall be just and may make such order on such terms, and may require such security as he may think proper.

Registrations under order to have no other effect than in ordinary cases.

46. All registrations of the absolute fee and charges made in pursuance of any such order as aforesaid shall stand in precisely the same position, and shall have such force and no other, as registrations of the absolute fee and charges made under the ordinary provisions of this Act.

#### TRANSFER OF ESTATE.

##### Mode of transferring absolute fees.

47. Every person registered in the form marked B in the said first schedule, may transfer the real estate mentioned therein or any part thereof by deed in the usual way or in either of the forms marked O and P in the said first schedule, and the Registrar, upon the receipt of the former certificate of the absolute fee, may grant registration of the absolute fee to such transferee in the form marked B in the said first schedule, and issue a new certificate to such transferee, and when necessary, a new certificate or certificates to the transferor or transferors in manner aforesaid. And upon such registration the transfer shall confer upon the person to whom the same is made an absolute fee in the land transferred, defeasible however as aforesaid, and subject also to the rights existing against any such estate by virtue of any charge or issue appearing on the Register at the time of such transfer, and also to any unregistered leasehold interest in possession for a term not exceeding one year as aforesaid.

##### Mode of transferring interests under charges.

48. Every person in whose behalf a charge is registered, other than a charge registered in the "Supplemental Charge Book" may transfer his interest, or any part thereof, in the real estate mentioned therein, or any part

thereof by deed in the usual way and may also transfer his entire interest in the real estate mentioned therein in either of the forms Q and R in the said first schedule.

##### Effect of transfers.

49. The transfer of the entirety shall, when made, upon registry thereof, confer upon the person to whom the same is made such interest as the transferor then had, defeasible however, as aforesaid, and subject also to the rights existing against any such interest by virtue of any charge, or issue appearing on the register at the time of such transfer, and subject also to any leasehold interest in possession for a term, not exceeding one year.

##### Transfer of Charge.

50. Every transfer in the said form marked Q, shall pass to the transferee and his heirs and assigns all the estate and interest of the transferor whether legal or equitable, defeasible however as aforesaid, and subject also to any registered charge or issue filed, or leasehold interest in possession for a term not exceeding one year, and the full and entire benefit of all covenants and agreements in respect of, and all powers, provisos, and conditions of entry, sale or leasing (if any) over the real estate, the subject matter of the transfer, to which the transferor was entitled at the time of such transfer; and if the Estate or interest, so transferred, is that of a mortgagee, such transfer shall also confer upon the transferee his executors, administrators, and registered assigns, the full benefit of and right to sue upon any covenant for payment of the mortgage moneys and the interest thereupon.

##### Transfer of Charge, Chattle, Interest.

51. Every transfer in the said form marked R, shall pass to the transferee, his executors, administrators, and assigns, all the estate and interest of the transferor, whether legal or equitable, defeasible however, as aforesaid, and subject also to any registered charge or issue filed or leasehold interest for a term not exceeding one year, and shall also pass the full and entire benefit of all covenants and agreements in respect of, and all powers, provisos and conditions of Entry, sale, or leasing

(if any) over the real Estate, the subject matter of the transfer, to which the transferor was entitled at the time of such transfer, and if the estate or interest so transferred is that of a mortgagee, such transfer shall also confer upon the transferee, his executors, administrators, and registered assigns, the full benefit of, and right to sue upon any covenant for payment of the mortgage moneys and interest thereupon.

#### POWER OF ATTORNEY.

Formalities to be pursued when application is made under a Power of Attorney

52. When any application is made by any person empowered to act under a Power of Attorney, the Registrar shall require the production of the said power, and if executed out of the Colony, a certificate notarial, Magisterial, or Judicial, as the case may require, verifying its authenticity, and the Registrar shall require from the donor, an examined copy of the power, and its verification, if any, and shall file the same, and may make such further requisitions as he may think necessary to verify the execution of the donor of the power, the identity of the Attorney, and the present validity of the Power.

An act not to be invalidated by reason of death of donor.

53. No registration, transfer, charge, issue, contest or other dealing done or effected under or by virtue of a Power of Attorney, shall as against a purchaser for value be prejudiced, or set aside by reason of the person by whom the power was given dying, revoking the power, becoming bankrupt or insolvent, or if a female, becoming married before doing or effecting such registration, transfer, charge, issue or contest, unless notice in writing of such death, revocation, bankruptcy, insolvency or marriage, shall have been received by the said Registrar previous to the doing or effecting of such registration, transfer, charge, issue, contest or other dealing.

#### DEPOSIT OF MAP.

54. It shall be lawful for any registered owner of an absolute fee, who may subdivide any land for the purpose of selling the same in allotments to deposit with the Registrar a map of such allotments and the title-deeds to the land subdivided—provided that

such map shall exhibit distinctly delineated all roads, streets, passages, thoroughfares, squares or reserves, appropriated or set apart for public use, and also all allotments into which the said land may be divided, marked with distinct numbers or symbols.

55. The registrar shall keep an index of maps deposited, as aforesaid, specifying the name of the depositor, the date of deposit, and referring to the page or pages of the Absolute Fees Parcels Book, in which the real estate mapped is described, and shall note the page of the Index on the map itself.

Judgment, Creditor may enter a charge.

56. Every person in whose favor a judgment has been entered, may enter a charge against any registered absolute fee or other interest of the judgment debtor.

No judgment to affect real estate unless a charge in respect thereof shall have been entered.

57. No judgment shall affect any real estate in respect of which registration has been effected, unless and until the person entitled to the same register a charge with the Registrar in respect of such judgment any notice of any such judgment in any wise notwithstanding.

Registrar may take the opinion of Court.

58. Whenever, in the opinion of the Registrar, from any special circumstances in the case, it is desirable that an application be heard and decided by the Court, the Registrar may notify the same to the applicant in writing, and the applicant is hereby authorized, upon the receipt of such notification, to petition the Chief Justice aforesaid, in a summary way, to order that the application be granted, and such order shall be made in the premises as the circumstances of the case may require, and the costs of the applicant, in and of and attendant upon such application, shall be borne by the applicant.

Power of the Court to restrain registration.

59. The Court may, upon the application by petition of any person interested in any real estate, registered under this Act, issue an order inhibiting any dealing with such real estate, and annex thereto any terms and

conditions it may think fit, and generally make such orders as the justice of the case may require.

Registrar may cancel charges and issues.

60. If any person register a 'charge,' or file an 'issue,' and, after being called on, fail to prosecute his rights, in the time prescribed by the Registrar, such 'charge' or 'issue' shall be cancelled by the Registrar, but without prejudice to a new 'charge' or 'issue.'

Penalties of filing a charge or issue without sufficient cause.

61. If any person shall register a 'charge' or file an 'issue,' without reasonable cause, or shall fail to prosecute the same as aforesaid, he shall be liable to make compensation to any person who may have sustained damage by such registration or filing.

Compensation how to be recovered.

62. Such compensation as aforesaid shall be recoverable immediately after the cancellation of the charge or removal from the file of the issue, and such compensation may be awarded by judgment or decree at the trial or hearing of the right asserted by such 'charge' or 'issue' in those cases where the right is tried.

Service of order, &c.

63. The service of any duly authenticated order, decree, rule, judgment, or any other proceeding, touching the registration of real estate, upon the Registrar, shall, without more, be sufficient authority for him to act in compliance therewith.

#### INSPECTION OF REGISTER.

64. Any person may inspect the Register on payment of the fee for inspection.

Persons entitled to apply for registration and transfer.

65. No application to be placed on the Register shall be made, and no 'charge' or 'issue,' shall be filed or registered except by the party in person claiming registration, or claiming to register or file such 'charge' or 'issue,' or by some Barrister, Solicitor, or Attorney of the Court.

SEAL.

Official Seal.

66. The Registrar shall have an Official Seal.

Power to use Seal.

67. The Registrar shall impress the Seal on every paper, writing or instrument issued by him officially.

Evidence of proceedings of Office.

68. Any paper, writing or instrument purporting to be signed and sealed with the Seal of the Registrar, shall *prima facie* be admissible in evidence without proof of such signing and sealing.

#### INDICES.

69. The Registrar shall keep separate indices of the "Absolute Fees Book," "Charge Book" "Supplemental Charge Book" and "Satisfaction Book," arranging in alphabetical order the names of the persons on whose behalf Absolute fees and charges shall have been registered and on whose behalf cancellation shall have been made, and a reference shall be made opposite each name to each page in the "Absolute Fees Book" "Charge Book," Supplemental Charge Book," and Satisfaction Book," in which an entry appears affecting the estate or interest of each person.

70. The Registrar shall also keep an alphabetical list of the names of all persons against whose estates or interests an 'issue' or 'notice of contest' may have been filed.

71. The Registrar shall also keep an alphabetical list of all persons by whom Powers of Attorney have been given, and shall endorse a memorandum of revocation opposite the entry of every Power of Attorney whereof he has received notice of revocation.

#### REGULATIONS.

72. The Registrar may, from time to time, make such rules and orders, forms, and directions for carrying out the purposes of this Act as may be necessary, and may cause the same to be printed, provided that all such rules and orders to be made by the Registrar under this Act, shall be submitted to the Chief Justice. And no such rules and orders shall take effect until the same have been approved by the Chief Justice; and a copy thereof shall be made and affixed to the walls of the Registrar's Office, for the information of the public.



Rules to be laid before Legislature.

73. All such rules, orders, forms and directions, shall be laid before the Legislature within seven days after the same have been approved of as aforesaid, if the Legislature be sitting, but if the Legislature be not sitting, then within seven days after the next meeting thereof.

Any person dissatisfied may obtain a rule to show cause against.

74. Any person dissatisfied with any decision or act of the Registrar, may obtain a rule from the Court for the Registrar to show cause why he should not do or omit the thing complained of, but in every instance the costs shall be borne by the person applying for such rule, unless he shall satisfy the Chief Justice that the conduct of the Registrar arose from malicious or interested motives or gross negligence.

No personal liability of Registrar.

75. The Registrar individually shall not, save as aforesaid, nor shall any person, acting under his authority, be liable to any action, suit, or proceeding for, or in respect of any Act or matter *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers of this Act.

#### FORGERY.

Penalty of Forgery.

76. If any person wilfully make any false declaration, or fraudulently procure, or assist in fraudulently procuring, or be privy to the fraudulent procurement of any order or rule of the Court, or of any fraudulent entry on the Register, or any alteration or erasure of such entry, he shall be guilty of a misdemeanor, and any order or rule procured by fraud, and any act consequent on such order and any entry, alteration, or erasure so made by fraud shall be void as between all parties or privies to such fraud.

Criminal proceedings not to affect civil rights.

77. No proceedings or conviction for any act hereby declared to be a misdemeanor, shall affect any remedy which any person aggrieved by such act, may be entitled to either at law or in equity against the person who has committed such act.

Forging Seal or Signature of Registrar.

78. If any person forge or procure to be forged, or assist in forging the Seal of the Registrar's office, or the hand writing of any officer therein, he shall be guilty of felony:

Criminal liability not to protect any person against giving evidence.

79. Nothing in this Act shall entitle any person to refuse to make a complete discovery by answer to any bill in equity or to answer any question or interrogatory in any civil proceeding in any Court of Civil Judicature, but no answer to any such bill, question, or interrogatory, shall be admissible against any such person, in evidence, in any criminal proceeding.

Fees.

80. The fees mentioned in the second Schedule hereunto annexed, shall be taken by the Registrar, and paid once a month into the Treasury of the Colony to and for the use of her Majesty, Her Heirs, and Successors. Provided always that it shall be lawful for His Excellency the Governor, from time to time to direct that the Fees which shall be received under the authority of this Act, shall be applied under such regulations as he shall appoint in payment of the current or incidental expenses of the said Land Registry office or any of them.

Provision for fixing the amount of percentage to be paid.

81. The Registrar shall, for the purpose of fixing the amount of the percentage to be paid under the provisions of this Act, require the person applying for registration to declare to the best of his knowledge, in writing, the true value of the interest in respect of which registration is sought, and such valuation shall in the cases hereinafter specified, be ascertained as follows:—

As regards absolute fees.

82. When an absolute fee is sold, and the transfer registered, by the actual price *bona fide* paid.

Mortgage.

83. When a mortgage is registered, by the amount secured.

84. An account shall be kept by the Registrar of the Fees received under the authority of this Act, and of the expenses paid thereout as aforesaid, and such account shall be transmitted once a month to the Colonial Secretary, for the information of the Governor.

Interpretation of Terms.

85. In the construction of this Act the following words and expressions shall have the meanings hereby assigned to them, unless such meanings be repugnant to or inconsistent with the context (that is to say) the word "Court" shall mean the Supreme Court of Civil Justice of Vancouver Island; the expression "Chief Justice," shall mean the Chief Justice of the said Court; the expression "Absolute Fee," shall mean and comprise the legal ownership in possession of an estate in Fee Simple; the word "Charge," shall mean any lesser Estate than a Fee Simple in possession, or any Equitable interest whatever in Real Estate, the word "Judgment" shall mean every Decree or Order of any Court of Equity, and every Judgment or order of any Court of Common Law whereby any sum of money, whether principal money or costs, is payable to any person or persons, in virtue thereof; the word "Person," and words applying to any person or individual shall apply to and include corporations; the word "Registrar" shall mean the Registrar General of Titles affecting Real Estate in Vancouver Island and its Dependencies; the word "Governor," and the expression "His Excellency the Governor," shall mean the Governor of the Colony or any other officer administering the Government of the Colony in Her Majesty's behalf

for the time being; and the expression "Real Estate" shall extend to and mean Lands, messuages, mines, and all other hereditaments whatsoever.

86. After the first appointment of a Registrar under this Act, the Registrar shall, with all convenient speed, procure such Books and Indices, and frame such forms and directions, and such rules and orders as may be necessary for the due execution of this Act, and for the regulation and management of the "Land Registry office;" and generally for regulating all other matters and things whatsoever connected therewith and not hereinbefore specially provided for. And as soon thereafter as may be convenient, it shall be lawful for the Registrar, with the consent of the Chief Justice, by notice published in one or more of the newspapers of the Colony, to appoint a time, not earlier than one Calendar month from the time of the publication of such notice, when Registrations under this Act shall commence, and the time so appointed shall be the time of the commencement of Registration under this Act.

Passed the House of Assembly the 28th day of November, A. D. 1860.

Passed the Council the 24th day of December, 1860.

Received my Assent the 18th day of January, A. D. 1861.

JAMES DOUGLAS,

GOVERNOR.

# SCHEDULE.

No.

## FORM A.

I,  
declare that I am the legal owner in my own right in fee simple in possession of the Real Estate hereunder described, and I claim to be registered accordingly. The particulars of the said claim appear in the instruments specified in the Schedule hereto.

### DESCRIPTION OF REAL ESTATE.

District.	Block.	Section.	Acreage.	

If a Town Lot.

Town.	Block.	Lot.	Admeasurements.

SCHEDULE.

FURTHER DESCRIPTION.

SCHEDULE OF INSTRUMENTS.

Date.	Parties.	Character of Deed.

FORM B.

No.

Name of Applicant.	Parcels (Short Description.)	Date of Application.	Date of Registration.	List of Instruments.

The Parcels are those described in "Absolute-fee Parcel Book," folio —

SCHEDULE.

FORM C.

No.

Folio of "Absolute-fees Book," —

Name of Applicant

District.	Block.	Section.	Acreage,

If a Town Lot

Town.	Block.	Lot.	Admeasurement.

Or otherwise, as the case may be.

FURTHER DESCRIPTION.

SCHEDULE.

FORM D.

No.

I,  
declare that I am entitled to a mortgage for \$500, estate for life, remainder in fee after the death of William Johnstone, of &c., &c., (according to circumstances, upon, in, over,) the real estate hereunder described, and I claim registration of a charge accordingly. The particulars of my said claim appear in the instruments specified in the Schedule hereto.

DESCRIPTION OF REAL ESTATE.

The absolute fee is registered at folio — of the "Absolute Fees Book," in the name of ——  
(This statement will be omitted where the application is made under Section —)

District.	Block.	Section.	Acreage.

If a Town Lot:

Town.	Block.	Lot.	Admeasurements.

FURTHER DESCRIPTION.

SCHEDULE.

SCHEDULE OF INSTRUMENTS.

Date.	Parties.	Character of Deed.

FORM E.

No.

(Folio of Absolute Fee Book.)

Charge.	Parcels. (Short Description.)	Date of Application.	Date of Registration.	Nature of	List of Instruments.

The Parcels are those described in the "Charges Parcels Book," folio —

SCHEDULE.

FORM F.

No.

FOLIO OF CHARGES BOOK.

District.	Block.	Section.	Acreage,

If a Town Lot

Town.	Block.	Lot.	Admeasurement.

Or otherwise, as the case may be.

FURTHER DESCRIPTION.



SCHEDULE.

FORM G.

No.

CERTIFICATE OF TITLE.

Name of Owner.	Page of Absolute Fees Book.	Page of Absolute Fees Parcel Book.	Date of Application.	Date of Registration.	List of Instruments.
			year. month. day. hour.		

(Signed)

Registrar General.

FORM H.

No.

I declare that my full Christian and surnames are \_\_\_\_\_  
 and I appoint \_\_\_\_\_ to be the place where all  
 notices and processes may be served upon me.

FORM I.

No.

ISSUE ON ABSOLUTE FEE.

I, \_\_\_\_\_ of \_\_\_\_\_  
 take issue on the Registration effected by \_\_\_\_\_  
 of \_\_\_\_\_ folio \_\_\_\_\_ of the Absolute Fees Book, as to (the whole or)  
 the following part of the Real Estate in respect of which Registration has been so effected, namely:

SCHEDULE.

FORM J.

No.

ISSUE ON A CHARGE.

I, \_\_\_\_\_ of \_\_\_\_\_  
take issue on the Registration effected by \_\_\_\_\_  
of \_\_\_\_\_ folio \_\_\_\_\_ of the Charge Book, and I say the same is improper  
as to (the whole or) \_\_\_\_\_ of such Registration.

---

FORM K.

No.

Registered (Charge, or Absolute Fees Book, as the case may be) folio —)

Date of Application.		Registration.		Name of Applicant.
Day.	Hour.	Day.	Hour.	

A. B. Registrar.

---

FORM L.

No.

I, \_\_\_\_\_  
of \_\_\_\_\_ file this notice of contest against an  
issue filed by \_\_\_\_\_ of  
folio \_\_\_\_\_ of the Issue Book, and I say the same is improper as to (the whole or  
of such registration.

SCHEDULE.

FORM M

No.   
 I,   
 of \_\_\_\_\_ have filed a notice of contest, folio — of th  
 Contest Book, and crave that the (charge or "issue." as the case may be,) may be (cancelled, or taken off the file,  
 as the case may be.)

FORM N.

No.   
 (Charge, Contest, or Issue, as the case may be.) Folio \_\_\_\_\_ of the \_\_\_\_\_ Book,  
 satisfied, and the particulars of such satisfaction are as follows:

FORM O.

No.   
 I, or We,   
 of \_\_\_\_\_ in consideration of \_\_\_\_\_   
 do hereby grant unto \_\_\_\_\_   
 all that piece or parcel of land, together with the messuges and erections thereon, situate \_\_\_\_\_   
 and being (parcel, or as the case may be) the real estate described at folio \_\_\_\_\_ of the Book of Descriptions of   
 the real estate registered for an "Absolute Fee," and which said real estate is registered in the Book of Registra-   
 tion of Absolute Fees, folio \_\_\_\_\_ To have and to hold the same unto and to the use of the said

heirs and assigns forever.

In witness whereof, I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_

Signed and sealed by the above-named,

in the presence of

the \_\_\_\_\_ day of \_\_\_\_\_

} { L. S. }

SCHEDULE.

FORM P.

No.

(I, or We)

of

in consideration of

do hereby grant unto

all that piece or parcel of land, together with the messuages and erections thereon, situate

and being (parcel of as the case may be) the Real Estate described at folio of the Book of Descriptions of the Real Estate registered for an Absolute Fee, and which said Real Estate is registered in the Book of Registration of Absolute Fees, folio, To have and to hold the same unto and to the use of the said

heirs and assigns forever.

And do hereby for

heirs, executors, and administrators, covenant with the said

and heirs, that have good right and title to convey the said hereditaments free from incumbrances, and that

heirs, executors and administrators, will at all times hereafter, at the reasonable request and cost of the said

heirs and assigns do all such reasonable acts and deeds as may be required of

heirs and assigns by the said

heirs or assigns for the further or better assuring the said hereditaments in manner aforesaid.

In witness whereof I have hereunto set my hand and seal this day of

Signed and sealed by the above named

in the presence of

the day of

} { L. S. }

SCHEDULE.

FORM Q.

Folio  
Book

I, \_\_\_\_\_ of \_\_\_\_\_  
in consideration of \_\_\_\_\_  
paid to me by \_\_\_\_\_ of \_\_\_\_\_  
the receipt of which sum I do hereby acknowledge, hereby transfer to him, his heirs and assigns, the estate or  
interest, in respect of which I am registered, together with all my rights, powers, estate and interest therein.

In witness whereof, I have hereunto set my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_  
in the year one thousand eight hundred and \_\_\_\_\_

Signed and sealed by the said  
in the presence of

} { L. S. }

FORM R.

Folio  
Book

I, \_\_\_\_\_ of \_\_\_\_\_  
in consideration of \_\_\_\_\_  
paid to me by \_\_\_\_\_  
of \_\_\_\_\_ the receipt of which sum I do hereby acknowledge,  
hereby transfer to him, his executors administrators and assigns, the estate or interest in respect of which I am  
registered, together with all my rights, powers, estate and interest therein.

In witness whereof, I have hereunto set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_  
in the year one thousand eight hundred and \_\_\_\_\_

Signed and sealed by the said  
in the presence of

} { L. S. }

SCHEDULE.

SECOND SCHEDULE.

	£	s.	d.
Inspection - - - - -	0	2	1
Application Registration - - - - -	0	2	1
Registration of any Original Absolute Fee - - - - -	0	4	2
	And one-fifth of one per cent. on the value of the Real Estate.		
Registration of any Charge - - - - -	0	2	1
	And one-tenth of one per cent on the value of the interest covered by the charge.		
For every Transfer of an Absolute Fee - - - - -	0	2	1
	And one-fifth of one-per cent. on the value of the Real Estate transferred.		
Every Certificate of Title - - - - -	0	2	1
Filing any Issue - - - - -	0	8	4
Filing any Contest - - - - -	0	2	1
Sealing any Document - - - - -	0	1	0
Cancellation of any Charge or Issue - - - - -	0	4	2
Filing any Document other than an Issue or Contest - - - - -	0	2	1
Every Notice sent by the Registrar - - - - -	0	2	1
Every Deposit of a Map and Title Deed - - - - -	2	0	0



# AN ACT

## To Authorise the Governor of Vancouver Island and its Dependencies, to Grant Certain Privileges to the Builder or Builders of a Powder Magazine.

**W**HEREAS, it is expedient to encourage the Erection of a Powder Magazine;

*Be it enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and House of Assembly of Vancouver Island and its Dependencies:*

### *Tenders and Contracts for Powder Magazine.*

I. That His Excellency the Governor be, and he is hereby authorized, to direct the Colonial Surveyor to advertise for tenders, for the space of one week, (in one or more newspapers published in the Colony,) from any person or persons willing to erect a safe and sufficient building for the purpose of a Powder Magazine, for the use of the merchants and other inhabitants of the Colony; and on the receipt of such tenders, it shall be lawful for the Governor, if he approve of the same, to authorize the said Colonial Surveyor to enter into such a contract with any such person or persons willing to erect, at his or their own expense, such a Magazine as aforesaid; and it shall be lawful for the Governor in such contract, to grant to the contracting party or parties the exclusive privilege of storing Gunpowder for reward, for any term not exceeding ten years from the passage of this Act, within three miles of the Towns of Victoria and Esquimalt.

### *Provisions to be Inserted in Contract.*

II. Provided that such Grantees of such privileges shall stipulate to store all Gunpowder, brought to him for that purpose, at a rate of not more than twelve shillings and six pence per ton per month; and shall also stipulate for the due and speedy erection of such a Magazine in a suitable place, to be approved of by the said Colonial Surveyor. Such Magazine, when erected, to be approved of for the purposes aforesaid, by a writing under the hand and seal of the said Colonial Surveyor. Provided also, that such contract shall contain such

other and further conditions and stipulations for the due completion of the work and otherwise, as to the Colonial Surveyor aforesaid may seem sufficient for the protection of the interests of the inhabitants of Victoria and the public generally.

*No Person to Warehouse Gunpowder for Reward, Except in the Magazine.*

III. No person or persons shall, after the approval of the Colonial Surveyor aforesaid, and after one week's notice of such approval in one or more of the newspapers of the Colony, warehouse for reward any Gunpowder within the three miles aforesaid otherwise than in the Magazine so approved.

### *Power to Purchase.*

IV. The Governor is hereby empowered at any time hereafter, to purchase the Magazine and the exclusive privilege aforesaid from the contracting party or parties, or his or their representatives, at a price to be ascertained by arbitration; one arbitrator to be named by the Governor, and the other by the contracting party or parties, or his or their representatives; and, in case of dispute, a Referee to be named by the Chief Justice. Provided always, that the said contracting party or parties shall have six months notice in writing under the hand of the Colonial Surveyor, of such intended purchase.

### *Short Title.*

V. This Act may be cited as the "Powder Magazine Act, 1860."

Passed the House of Assembly, 13th December, 1860.

Passed the Council, 22d January, 1861.

Received my assent, the 6th day of February, A. D. 1861.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To authorize the raising of a Loan of Ten Thousand Pounds upon the security of the Dues and Monies levied by virtue of the "Victoria and Esquimalt Harbour Dues Act 1860."

**W**HEREAS, it is expedient that the Harbour of Victoria, and the Communications between Victoria and Esquimalt should be permanently improved;

Be it enacted by the Governor on behalf of Her Majesty by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies as follows:

*Monies levied under the "Victoria and Esquimalt Harbour Dues Act 1860" to be carried to the "Harbour Fund."*

I. That all monies and dues levied in respect of Licenses, Dues and Permits according to the Schedules A, B, C, and D, to the "Victoria and Esquimalt Harbour Dues Act 1860" shall, together with any other incomes appropriated for the purpose, be paid into the Treasury of Vancouver Island to a separate account to be entitled the "Harbour Fund."

*Governor to nominate a Harbour Commission.*

II. The Governor for the time being is hereby empowered to nominate a Commission to be called the "Harbour Commission," consisting of not more than seven, nor less than five persons, to enquire into and report upon the state of Victoria Harbour, and the best means for its permanent improvement; and to fill up from time to time the vacancies occurring in such Commission.

*Salary of Harbour Master and Certain Expenses to be paid out of the "Harbour Fund."*

III. The Salary of the Harbor Master and the expenses of and incidental to his office, not exceeding in the whole the sum of Six Hundred and Fifty Pounds, shall in the first place be paid out of the said "Harbour Fund."

*Governor to nominate an Esquimalt Road Commission.*

IV. The Governor aforesaid may also appoint a Commission to be called the "Esquimalt Road Commission" consisting of not more than seven nor less than five persons, of whom some may be Officers in Her Majesty's Military and Naval Services, to enquire into and report upon the state of communica-

tions between Esquimalt and Victoria, and as to the best means of improving the same, and fill up all vacancies which may from time to time occur in such Commission.

*Line of Road to be Advertised.*

V. The line of Road recommended shall be advertised within one week after the same is reported on.

*Governor to borrow £10,000 or less.*

VI. The Governor aforesaid after receiving the reports aforesaid may borrow upon the security of the said "Harbour Fund," but subject to the payment of the expenses aforesaid, any sum not exceeding the sum of Ten Thousand Pounds (£10,000) to bear interest at the rate of not more than £12 per centum per annum. The sum required shall be borrowed in sums of One Hundred Pounds (£100) in manner following:

*Advertisements for Loan.*

VII. The Governor aforesaid shall issue advertisements in one or more of the public newspapers published in this Colony, thrice a week for one fortnight, calling upon all persons desirous of taking up the said Loan to tender for the same by a day to be therein named.

*Tenders to be opened.*

VIII. On the day next subsequent to the day so named the tenders shall be opened, and the most advantageous tender, not requiring interest at a higher rate than £12 per centum per annum, shall be accepted.

*After the expiry of a fortnight Governor may borrow by private Contract.*

IX. In the event of the said sum not being taken up at the expiry of the said fortnight, the Governor aforesaid may borrow the same, or any part thereof from any person or persons willing to advance the same, provided that no higher rate of interest than £12 per centum per annum be taken; and provided that the same amounts or any part thereof be borrowed either at a premium, part, or discount of not more than £5 per centum.



*Interest to be payable quarterly.*

X. The interest on the said Loan shall be payable quarterly on the 24th day of December; the 24th day of March; the 24th day of June; and the 28th day of September of each year.

*Manner of paying off Principal*

XI. The Loan shall be repaid in manner following: After payment of the salary and expenses aforesaid, so much of the said "Harbour Fund" as is required for that purpose shall be employed on each of the said Quarter days in paying off the interest for the time being accrued, due on the said Loan; and the surplus after such payment shall on the 24th day of June in every year be employed in discharging so many of the said sums of £100 as such surplus is capable of discharging. such sums to be discharged in priority according to the date of advance.

*Certificate to be issued to Lender.*

XII. Every person advancing money on the security of the said "Harbour Fund" shall receive a Certificate, signed by the Governor and sealed and countersigned by the Colonial Secretary of Vancouver Island in the form marked A in the Schedule hereto, and shall also be registered in a book to be kept for that purpose, as the owner of a £100 share in the "Harbour Fund Loan."

*Effect of Certificate.*

XIII. The issuance of the said Certificate shall entitle the person to whom such Certificate is primarily issued, to the payment of the said interest on the days aforesaid; and the repayment of the £100 Capital in priority as aforesaid, and any person may endorse over any such Certificate to any other person and when any such Certificate shall have been endorsed over, the Endorsee shall be entitled to the same extent as the original owner, upon causing himself to be registered as the owner of the specific share so endorsed over, and he shall be so registered upon producing a declaration signed by the Endorser in the form marked B in the Schedule hereto, and attested by two persons witnesses to the endorsement in this manner in the said form set forth.

*Mode of Endorsement.*

XIV. In the event of such endorsement being made in any place other than the Colony of Vancouver Island, such endorsement shall be made in the presence of some Notary Public, Magistrate, or Judge of a Court of Record, duly attested, if not in the British possessions by the British Consul.

*Interest secured on the General Revenue of the Colony.*

XV. In the event of the "Harbour Fund" proving at any time insufficient to pay any portion of the said Interest the portion unpaid shall be paid out of the General Revenue of the Colony and the said General Revenue is hereby primarily charged with such payment.

*Governor may lay out £8,000 on the Harbour.*

XVI. The Governor aforesaid is hereby empowered to lay out such portion of the said sum of £10,000 not exceeding Eight Thousand Pounds in such per-

manent improvement of the said Harbour as he may think advisable, upon receiving a requisition to that effect from the majority of the said Harbour Commission.

*Governor may lay out £2,000 on the communications to Esquimalt.*

XVII. The Governor aforesaid is hereby also empowered to lay out such portion of the said sum of £10,000 not exceeding the sum of Two Thousand Pounds in such permanent improvements of the communications between Victoria and Wharf Street, Esquimalt, as he may deem advisable upon receiving a requisition to that effect from the majority of the said Esquimalt Road Commission.

*Short Title.*

XVIII. This Act may be cited as the "Victoria Harbour Act 1860."

Passed the House of Assembly, the 29th day of October, 1860.

Council amendments agreed to the 23d day of November, 1860.

Passed the Council, the 21st day of November, 1860.

Assented to this 16th day of July, 1861.

JAMES DOUGLAS,  
Governor.

SCHEDULE A.

*Fees for Entrance and Clearance for Vessels Entering and Clearing the Ports of Victoria and Esquimalt.*

	£	s	d
All Vessels under 15 Tons.....	0	4	2
" " Between 15 and 30 Tons.....	0	6	3
" " 30 and 50 tons.....	0	8	4
" " 50 and 100 tons.....	0	12	6
" " 100 and 200 tons.....	0	18	9
" " 200 and 300 tons.....	1	5	0
" " 300 and 400 tons.....	1	13	4
" " 400 and 500 tons.....	2	1	8
" " 500 and 600 tons.....	2	5	10
" " 600 and 700 tons.....	2	10	0
" " 700 and 800 tons.....	2	14	2
" " 800 and 900 tons.....	2	18	4
" " 900 and 1000 tons.....	3	2	6
" " 1000 and upwards.....	3	6	8

All Steamers *bona fide* carrying Mails to pay half the amount of the above scale of fees, according to their tonnage.

SCHEDULE B.

*Half Yearly License for Coasters.*

	£	s	d
Under 10 Tons.....	1	0	0
Above 10 tons and under 30 tons.....	2	0	0
" 30 " " " 50 tons.....	3	0	0
" 50 " " " " ".....	4	0	0

SCHEDULE C.

	£	s	d
Wherries and Skiffs plying for hire and licensed to carry not exceeding six passengers, per Quarter.....	1	0	0
Row Boats and Yawls plying for hire and licensed to carry more than six passengers, and under Ten Tons burden, per Quarter....	1	10	0
Lighters and Scows employed in freighting or discharging Vessels, or otherwise for hire, under Ten Tons burden, per Quarter.....	2	0	0
Lighters and Scows exceeding Ten Tons burden, per Quarter.....	2	0	0
and one shilling additional for every Ton exceeding Ten Tons and up to One Hundred Tons burden.			

SCHEDULE D.

*Landing Permits.*

	£	s	d
For Invoices under £100 in value.....	0	4	2
“ above £100 and under £ 250 in value.....	0	6	3
For Invoices above £250 and under £ 500 in value.....	0	8	4
For Invoices above £500 and under £ 1000 in value.....	0	12	6
For Invoices above £1000.....	0	16	8

FORM A.

No. ....  
*Certificate of a £100 share in the £10,000 Loan under the “ Victoria Harbour Act 1860 ” Guaranteed by the Government of Vancouver Island.*  
 This is to certify that..... of..... has paid One Hundred Pounds on account of one share in the “ Harbour Fund Loan ” under the provisions of the “ Victoria Harbour Act 1860,” bearing interest at the rate of £.....per centum per annum payable Quarterly.

.....  
 Governor.

.....  
 Colonial Secretary.

FORM B.

I.....of.....do hereby declare that I, on the.....day of.....did endorse over to.....of.....Certificate No..... for the sum of £.....secured by the “ Victoria Harbour Act 1860.”

(Signed) C. F.

Witnesses

A. F.....of.....&c.

C. D.....of.....



# AN ACT

## To provide for and Regulate the Sale of Wines, Spirits, Malt and other Liquors.

**W**HEREAS it is expedient to regulate the Sale of Wines, Spirituous, Malt and other Liquors, and to grant Licenses to persons duly authorising them to sell the same;

Therefore, be it enacted, by the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, that from and after the passage of this Act there shall be raised, levied, collected and paid to the use of Her Majesty, Her Heirs and Successors, for every License to be granted for the sale of Wines, Spirits, Beer, Ale, Porter, Cider or Perry, the sums following.

*Licenses to sell Wines by Wholesale, £25. per annum.*

I. For every License to sell Wines, Spirits, Beer, Ale, Porter, Cider or Perry, by wholesale, the sum of Twenty-five Pounds, sterling, (£25) per annum, which shall be paid in four quarterly instalments of Six Pounds Five Shillings (£6 5s. 0d.) each in advance, as hereinafter provided.

*Licenses to sell Wines, &c., by retail, £60 per annum.*

II. For every License to sell Wines, Spirits, Beer, Ale, Porter, Cider or Perry, by retail, the sum of Sixty Pounds, sterling, (£60) per annum, which shall be paid in four quarterly instalments of Fifteen Pounds, (£15) each, in advance, as hereinafter provided; provided always that it shall be lawful for any chemist or druggist to sell Alcohol, wholesale or retail, on payment of an annual license of Twenty-five Pounds, (£25) by four quarterly instalments of Six Pounds Five Shillings (£6 5s. 0d.) each in advance, as hereinafter provided.

*License to sell Wines, &c., by retail at a distance not less than three miles from any town, £12 per annum.*

III. For every License to sell Wines, Spirits, Beer, Ale, Porter, Cider, or Perry, by

retail on any premises which shall be distant not less than three miles measured by the road from any town in the Colony, the sum of Twelve Pounds, (£12) by four quarterly instalments of Three Pounds sterling, (£3) each, in advance, as hereinafter provided.

*Manufacturers of Ale, Beer, &c., exempt.*

IV. No person or persons manufacturing Ale, Beer, Porter, Cider, or Perry, shall come under the provisions of this Act for selling the produce of such manufacture wholesale.

*Quantities to be sold under License.*

V. A Wholesale License shall entitle the holder thereof to sell Wines, Spirits, Ale, Beer, Porter, Cider, or Perry, in quantities of not less than Two Gallons, imperial measure, or twelve reputed quart bottles, or twenty-four reputed pint bottles, at one time; and a Retail License shall entitle the holder thereof to sell Wines, Spirits, Ale, Beer, Porter, Cider, or Perry, in any quantities not exceeding Two Gallons, or not exceeding twelve reputed quart bottles, or twenty-four reputed pint bottles at any one time.

*Time for which Licenses are to be granted.*

VI. All Licenses granted under this Act by the Justices of the Peace, shall be for one year from the twenty-first of July in each year.

Provided nevertheless, that the Justices may and they are hereby authorised from time to time to grant any one or more of the Licenses hereinbefore mentioned, for a shorter period than one year, but not less than three months, to such persons only as have not been before licensed for the same year; but all such licenses shall terminate, as well as the licenses for one year, on the said twenty-first day of July; and

Provided always, that no license shall be granted to any person not before licensed, unless it shall appear to the magistrates that

such grant be necessary to the interests of the public.

*Licenses may be Surrendered.*

VII. It shall be lawful for any person to give up his license by notifying to the Colonial Treasurer in writing, before the day on which any quarterly payment shall become due, his intention to give up his License from that day.

*Penalties for non-Payment of Instalment.*

VIII. Any person holding any one of the aforesaid Licenses, and neglecting or refusing to pay any one of the aforesaid quarterly instalments when they become due, shall, on proof of any such non-payment before any Justice of the Peace, be liable to a penalty of not more than double the amount of the unpaid License, to be recovered by distress and sale of the goods and chattels of such defaulter.

*As Regards Auctioneers.*

IX. It shall not be lawful for any Auctioneer to sell or dispose of by public auction or private contract, Wines, Spirits, Beer, Ale, Porter, Cider, or Perry, unless such Auctioneer shall take out a License in the manner prescribed by this Act, or unless such sale take place in behalf of some person licensed to sell Wines, Spirits, Beer, Ale, Porter, Cider, or Perry, under the provisions of this Act.

*Penalty for Selling under Cover of License Granted to Another Person.*

X. If any person shall sell or suffer to be sold Wines, Spirits, Beer, Ale, Porter, Cider, or Perry, under cover or by means of a License granted to another person, he shall be liable to all the penalties which are incurred by persons selling Wines, Spirits, Ale, Beer, Porter, Cider, or Perry without a License.

*Penalties for Selling without License.*

XI. It shall be unlawful to sell any Wines, Spirits, Ale, Beer, Porter, Cider, Perry, or Alcohol without a License, and all persons selling such liquors or any of them without such License, shall, on conviction thereof before any Justice of the Peace, be liable to a fine of not less than ten pounds,

(£10,) and not more than one hundred pounds (£100) for every such offence, together with the costs of conviction.

*Instalments, how to be paid.*

XII. All duties imposed under this Act shall be due and payable in four quarterly instalments, on the twenty-first day of July; the twenty-first day of October; the twenty-first day of January; and the twenty-first day of April, in each and every year, to the Colonial Treasurer, at his office in Victoria, between the hours of ten o'clock, A. M.; and four o'clock, P. M.

*Acts repealed.*

XIII. The several Acts or parts of Acts set forth in the Schedule A. to this Act annexed, are hereby repealed.

*Short title.*

XIV. This Act may be cited as the "Liquor License Act 1861."

**SCHEDULE A.**

1. Ordinance of Council dated March 27th, 1853, authorizing the levying of certain duties on Licenses for the Sale of Spirituous Liquors.
2. An Act dated November 15th, 1858, to amend the law relating to the Licensing of Inns, Public and Beer Houses.
3. An Act dated November 15th, 1858, to amend the Laws relating to Inns and Beer Houses.
4. An Act to authorize and regulate the Sale of Wines, Spirits and other Liquors, dated July 18th, 1859.

Passed the House of Assembly the 16th day of July 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 17th day of July, 1861.

JOSEPH PORTER,  
Acting-Clerk of the Council.

Assented to this 18th day of July, 1861.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To Extend and Amend the Provisions of the "Fireman's Protection Act, 1860."

WHEREAS, the provisions of the "Fireman's Protection Act, 1860" are by the said Act declared to be in force for the space of one year only from the passage thereof;

And whereas it is expedient to re-enact and amend the same.

Be it enacted by the Governor on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, as follows:

I. The Fire Department of the Town of Victoria shall be organized in the manner following:

II. The Fire Department shall consist of the existing Fire Companies and such other Companies as may be from time to time admitted pursuant to the By-Laws for the time being regulating the Department.

III. The officers of the Fire Department shall consist of a Chief Engineer, and an Assistant Engineer, a President, a Secretary and a Treasurer.

IV. There shall be a Board of Delegates consisting of three persons from each company; the first Delegates shall be elected within seven days after the passage of this Act; the Delegates shall be afterwards elected annually on some day to be fixed by a By-Law.

V. Each member of an admitted Company shall have three votes in the election of Delegates, and he may vote for any three or less number of candidates; but his vote, if given for a less number than three, shall only count as a single vote for each candidate for whom he votes.

VI. The Board of Delegates shall have the power of passing By-Laws for the regulation of the Fire Department, which, after the approval, in writing, of the Governor for the time being, shall be binding and conclusive on all members of the Fire Department.

VII. The Board of Delegates shall annually elect a President, Secretary and Treasurer of the said Fire Department, each member of the Board having one vote for each officer to be elected.

VIII. The first election of President, Secretary and Treasurer shall take place on the seventh day after the election of the Board of Delegates. Subsequent elections shall take place on a day certain in each year, to be fixed by By-Law.

IX. Until the election of a Chief Engineer and Assistant Engineer, the present Chief Engineer and Assistant Engineer shall continue to hold office.

X. There shall be an annual election for Chief Engineer and Assistant Engineer, at which each member of the Fire Department shall have a vote

for Chief Engineer and also a vote for Assistant Engineer; and in case of an equality of votes for either office, the President shall have a casting vote.

XI. The President of the Department shall call the said election, giving ten days' notice thereof in at least one of the local papers.

XII. The Election shall be held under such regulations as may be contained in By-Laws to be passed by the Board of Delegates in that behalf.

XIII. The election of Chief Engineer and Assistant Engineer shall be subject to the approval of the said Governor.

XIV. No member of a Fire Company admitted as aforesaid shall be liable for damage done by him to the property of any other person, in the extinction of, or attempted extinction of, fire, or in the removal of any erection, edifice, or building which, regard being had to the safety of adjacent property, may be reasonably deemed expedient to remove.

XV. Provided always that in the destruction or removal of property aforesaid, the immunities hereinbefore given shall not extend to any person who shall act in such destruction or removal contrary to or without the order of the Chief Engineer or Assistant Engineer, or other person who by virtue of some By-Law shall be authorized to direct the actions of the Fire Department.

XVI. Provided, also, that the immunities aforesaid shall not extend to any person who shall in the destruction or removal of any property aforesaid be guilty of malice, wanton mischievousness, or gross negligence.

XVII. In case of any suit or action brought by any person against any member of any Fire Company so admitted as aforesaid, in respect of damage done by such member, such member may obtain the benefit of this Act by a plea in the words and figures following: "not guilty" by statute, without malice, wanton mischievousness or gross negligence.

XVIII. This Act may be cited for all purposes as the "Fireman's Protection Act, 1861."

Passed the House of Assembly, 23d August, 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council, 9th September, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Assented to this 10th day of September, A. D. 1861.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To enable Aliens to hold and transmit Real Estate.

**W**HEREAS, it is expedient to enable Aliens to hold and transmit Real Estate in Vancouver Island and its Dependencies :

Be it enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies :

*Aliens may hold and transmit Real Estate as fully as British Subjects.*

I. That from and after the passage of this Act, it shall be lawful for any Alien to hold, possess, use, occupy, enjoy and transmit by descent or otherwise, Real Estate of what nature or kind soever in Vancouver Island and its dependencies, as fully and indefeasibly (for all purposes connected with the holding, use and transmission of Real Estate, but not further or

otherwise,) as if he had been born a British subject.

*Short Title.*

II. This Act may be cited as the "Act to enable Aliens to hold Real Estate, 1861."

Passed the House of Assembly, the 6th day of September, 1861.

E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council the 15th day of October, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent the 28th day of October, A. D. 1861.

JAMES DOUGLAS.



# AN ACT

## To authorize the Continuation of certain Streets in Victoria, Vancouver Island.

WHEREAS, by an Act made and passed on the 28th of August, 1860, entitled an Act to Improve the Streets of the Town of Victoria, and to authorize the collection of a Tax to be called the Victoria Street Fund, the Executive is empowered to expend a sum of £2000 in certain improvements therein mentioned ;

And whereas, the said sum of £2000 was raised by a Tax of Five-Eighths of One Per Cent. upon the market value of all Real Estate situate within the Electoral limits of the Town of Victoria ;

And whereas, the said Tax has produced a sum exceeding the said sum of £2000 ;

And whereas, it is expedient to apply the surplus of the said Moneys raised by the said Tax in opening and maintaining communications ;

Be it therefore enacted by his Excellency the Governor on behalf of Her Majesty by and with the advice and consent of the Legislative Council and House of Assembly of Vancouver Island and its dependencies ;

I. That the Executive is hereby empowered out of the surplus funds arising from the said Tax of Five-Eighths of One Per Centum, to continue the Road, properly graded and macadamized, twenty (20) feet wide, from the point where the

present metalling or macadamizing of Douglas street terminates on the North, along the line of Douglas street to the Northern limits of the Town, so as to effect a junction with the North Road.

II. That after the completion of the said lastly hereinbefore mentioned Road, the overplus (if any) of the said Moneys may be laid out by the Executive in continuing the Road along Store street to the new Bridges, either by Store street or Constance street.

III. This Act may be cited as "The Supplementary Street Act, 1861."

Passed the House of Assembly the 9th of September, 1861. Council amendments agreed to by the House of Assembly 24th of September, 1861.

E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council the 19th day of September, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent the 29th day of October, A. D. 1861.

JAMES DOUGLAS.



# AN ACT

## To Amend the Procedure in Civil Cases.

**W**HEREAS, it is expedient to amend the Procedure of the Supreme Court of Civil Justice ;

Be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, as follows :

I. "The Common Law Procedure Act, 1852," "The Common Law Procedure Act, 1854," "The Common Law Procedure Act, 1860," and the Rules of Practice and Pleading made in pursuance of the said Acts, or either of them, shall, subject to the provisions hereinafter contained, regulate the practice and procedure of the said Supreme Court of Civil Justice, in all actions and proceedings at law ; and the said Court shall govern itself as nearly thereby as local circumstances will permit.

II. The sections from 104 to 115, both inclusive, of "The Common Law Procedure Act, 1852," shall not apply.

III. The several Statutory Enactments regulating the practice, pleadings and procedure of the High Court of Chancery in force on the 14th day of February, 1860, and the several orders and regulations in force in the said High Court on the said 14th day of February, 1860, shall regulate the proceedings of the Supreme Court of

Civil Justice sitting in Equity, and the said Court shall govern itself thereby so far as local circumstances shall permit.

IV. The Chief Justice may from time to time, with the approval of the Governor for the time being, make and publish General Orders for modifying the procedure at law or in Equity as hereby provided.

V. And a copy of such General Orders shall be presented to the House of Assembly and Legislative Council within fourteen days from the publication of the same; or if not sitting, within fourteen days from the first sitting next after such publication.

VI. This Act may be cited as "The Vancouver Island Civil Procedure Act, 1861."

Passed the House of Assembly 26th September, 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council 29th October, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council

Received my assent this 14th day of November, A. D. 1861.

JAMES DOUGLAS.





# AN ACT

## To provide for the Naturalization of Aliens.

**WHEREAS**, it is expedient to provide for the Naturalization of Aliens :

Be it enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, as follows :

*Aliens resident for Three Years within the Colony who shall take the Oaths of Residence and Allegiance shall have all the Rights of British subjects.*

I. Every Alien who has completed or shall hereafter complete a continuous residence in any part of this Colony for the space of Three Years or upwards, and who shall not be amenable to the laws of any foreign country as a felon, and who shall take the Oaths of Residence and Allegiance, and shall have procured the same to be filed of record as hereinafter prescribed, so as to entitle him or her to a Certificate of Naturalization as hereinafter provided, shall from the date of such Certificate within the Colony of Vancouver Island and its Dependencies, enjoy, and may transmit, all the rights and capacities which a natural born subject of Her Majesty can enjoy or transmit. Provided

that nothing herein contained shall confer upon any such Alien the right to be nominated or elected a member to either branch of the Legislature.

### *Residential Oath.*

II. Every such Alien, in order to become entitled to the benefit of this Act, shall take and subscribe the following Oath of Residence, or make solemn affirmation and declaration to the same effect, that is to say,—“ I, A. B., do swear (or do solemnly and sincerely affirm and declare) that I have resided three years in the Colony of Vancouver Island and its Dependencies, at . . . . ., without having been during that time a stated resident in any foreign country ; and that I fully intend to reside permanently in Vancouver Island. So help me God.”

*Residential Oath to be taken before a Justice of the Peace, who shall thereupon issue a Certificate of Residence.*

III. And every such Oath or Affirmation shall be taken and subscribed by the said Alien before and shall be administered to him or her by some Justice of the Peace, and the said Justice shall, upon corrobora-

tive evidence given on oath before him by two or more credible witnesses of the facts stated in such Oath or Affirmation of Residence, grant to the said Alien a Certificate of Residence, setting forth that such Alien has taken and subscribed the said Oath or Affirmation, and (if the fact is so,) that such Justice has reason to believe that such Alien has been so resident within the Colony for the time aforesaid, and that there exists to the knowledge of such Justice no reason why the said Alien should not be granted all the rights and capacities of a natural born British subject.

*After One Month's publication of Application Chief Justice to administer Oath of Allegiance.*

IV. The said Alien, after receiving such Certificate, may apply to the Registrar of the Supreme Court of Civil Justice for Naturalization, and it shall be the duty of the said Registrar thereupon to publish the said application, by posting a notice for One Month on the walls of his office, describing the name, occupation and residence of the applicant as specified in the Certificate given by the Justice of the Peace; and if during that time no valid objection shall be made to the Naturalization of such Alien, the Chief Justice shall, in open Court, administer to the said applicant the Oath of Allegiance in the Schedule hereunto annexed; or, in the case of Quakers, Moravians, Separatists, and others who shall declare that they have a conscientious objection to the taking of an oath, may take their affirmation to the same effect; and on taking or affirming and subscribing the said Oath or Affirmation of Allegiance, such Alien shall thereupon be and be deemed to be entitled to all the privileges of British born subjects, save and except as is hereinbefore provided.

*Certificate of Naturalization.*

V. Every such person shall be then entitled to receive a Certificate of Naturalization under the Seal of the Supreme Court of Civil Justice, in the following form :

COLONY OF VANCOUVER ISLAND.

In the Supreme Court of Civil Justice.

Whereas, A. B., formerly of . . . . ., and now of . . . . ., hath complied with the several requirements of the Alien Act, 1861, these are therefore to certify to all whom it may concern, that under and by virtue of the said Act, the said A. B. hath obtained all the rights and capacities of a natural born British subject conferred by this Act, within this Colony, to have, hold, possess and enjoy the same within the limits thereof, upon, from and after the . . . . . day of . . . . ., (day of filing Certificate of Residence.) in the year of our Lord . . . . .

Given under my hand and seal of the said Court, this . . . . . day of . . . . ., in the year of our Lord . . . . .

(Signed) . . . . .

*Record of Certificate of Naturalization.*

VI. A Record of all Certificates of Naturalization shall be kept in the said Court and open to inspection, free of any charge.

*Wife of Naturalized Alien to be deemed a British subject.*

VII. Any woman married to a natural born British subject, or person naturalized under the authority of this Act, shall be deemed to be herself Naturalized, and have all the rights and privileges of a natural born British subject within this Colony.

*Fees.*

VIII. The Justice of the Peace administering the oath or affirmation and granting

the said Certificate of Residence, shall be entitled to receive from the person to whom he administers and grants the same, the sum of four shillings and two pence; and the Registrar of the Supreme Court shall receive likewise for the administration of the Oath of Allegiance and issuing the said Certificate of Naturalization, the sum of four shillings and two pence. All such sums to be paid into the Treasury of the Colony, to be applied to the use of Her Majesty, Her Heirs and Successors.

*Penalties of Perjury, &c.*

IX. Any person wilfully swearing falsely or making any false affirmation or declaration under this Act, shall be deemed guilty of wilful and corrupt perjury, and shall on conviction, in addition to any other punishment authorized by law, forfeit all the privileges or advantages which he or she would otherwise by making such oath or affirmation or declaration have been entitled to under this Act, but the rights of others in respect to Estates derived from or held under him or her, shall not thereby be prejudiced; excepting always the rights of such others as shall have been cognizant of the perjury at the time the title by which they claim to hold under him or her was created.

*Short Title.*

X. This Act may be cited as "The Alien Act, 1861."

Passed the House of Assembly 18th July, 1861.  
Council amendments agreed to 23d October, 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 13th of September, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 14th day of November, A. D. 1861.

JAMES DOUGLAS.

SCHEDULE.

OATH OF ALLEGIANCE.

I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty Victoria, of the United Kingdom of Great Britain and Ireland, and of the Dependencies and Colonies thereof in Europe, Asia, Africa, America and Australasia; Queen, and that I will defend Her to the utmost of my power against all conspiracies and attempts whatever, which shall be made against Her Person, Crown or Dignity, and I will do my utmost endeavor to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies which may be formed against Her or Them. And I do faithfully promise to maintain, support and defend to the utmost of my power, the succession of the Crown, which succession, by an Act intituled "An Act for the further limitation of the Crown and better securing the Rights and Liberties of the Subject," is and stands limited to the Princess Sophia, Electress of Hanover, and the Heirs of her body, being Protestants, hereby renouncing and abjuring any obedience or allegiance unto any other person claiming or pretending a right to the Crown of the said Realm and its Dependencies and Colonies as aforesaid. So help me God.

(Signed.)

A. B.

Sworn and subscribed by the said A. B. before me, this ..... day of ..... 18....

(Signed.)

.....



# AN ACT

## To Cure Defects in Titles to Real Estate in Vancouver Island and its Dependencies, held by or derived through Aliens.

**W**HEREAS, Aliens have purchased Real Estate in this Colony to a considerable extent from the Grantees of the Crown ;

And whereas, it is expedient to remove any doubts as to the Title of Aliens to Real Estate which they now hold, and as to the Title of British subjects to Real Estate derived through Aliens ;

Be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Colony of Vancouver Island and its Dependencies, as follows :

*Titles derived through Aliens before this Act not on that account invalid.*

I. No person, whether an Alien or a born or naturalized British subject, shall be disturbed in the possession or precluded from the recovery of any lands, tenements or hereditaments in this Colony, on the ground that he himself or any person through whom he derived his title before the passage of this Act, was an Alien.

*Provided that no actual Possession or Sale shall be affected thereby.*

II. Provided nevertheless, that no actual possession taken, sale made, or action or suit or proceeding instituted previous to the passage of this Act, shall be affected hereby, but shall be and remain as though this Act had not been passed.

*Short Title.*

III. This Act may be cited as "An Act for the Confirmation of the Titles of Aliens to Real Estate, 1861."

Passed the House of Assembly 6th September, 1861. Council amendments agreed to 23d October, 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 11th day of October, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 14th day of November, A. D. 1861.

JAMES DOUGLAS.

V.



R.

# AN ACT

## For preventing Frauds upon Creditors by Secret Bills of Sale of Personal Chattels.

WHEREAS, frauds are frequently committed upon Creditors by Secret Bills of Sale of Personal Chattels, whereby persons are enabled to keep up the appearance of being in good circumstances and possessed of Property, and the grantees or holders of such Bills of Sale have the power of taking possession of the property of such persons, to the exclusion of the rest of their Creditors ;

For remedy whereof, be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, as follows :

*All Bills of Sale to be void unless the same or a copy thereof be filed within twenty-one days, in like manner as Warrants of Attorney.*

I. Every Bill of Sale of Personal Chattels made after the passing of this Act, either absolutely or conditionally, or subject or not subject to any trusts, and whereby the grantee or holder shall have power, either with or without notice, and either immediately after the making of

such Bill of Sale, or at any future time, to seize or take possession of any property and effects comprised in or made subject to such Bill of Sale, and every Schedule or Inventory which shall be thereto annexed or therein referred to, or a true copy thereof, and of every attestation of the execution thereof, shall, together with an affidavit of the time of such Bill of Sale being made or given, and a description of the residence and occupation of the person making and giving the same, or in case the same shall be made or given by any person under or in the execution of any process, then a description of the residence and occupation of the person against whom such process shall have issued, and of every attesting witness to such Bill of Sale, be filed with the Registrar General within twenty-one days after the making or giving of such Bill of Sale, otherwise such Bill of Sale shall as against all Assignees of the Estate and Effects of the person whose goods or any of them, are comprised in such Bill of Sale, under the laws relating to Bankruptcy or Insolvency, or under any Assignment for the benefit of the Creditors of

such person, and as against all Sheriff's officers and other persons seizing any property or effects comprised in such Bill of Sale in the execution of any process of any Court of Law or Equity authorizing the seizure of the goods of the person by whom or of whose goods such Bill of Sale shall have been made, and against every person on whose behalf such process shall have been issued, be null and void to all intents and purposes whatsoever, so far as regards the property in or right to the possession of any personal Chattels comprised in such Bill of Sale, which at or after the time of such Bankruptcy or of filing the Insolvent's Petition in such Insolvency, or of the execution by the Debtor of such Assignment for the benefit of his Creditors, or of executing such process, (as the case may be) and after the expiration of the said period of twenty-one days, shall be in the possession or apparent possession of the person making such Bill of Sale, or of any person against whom the process shall have issued under or in the execution of which such Bill of Sale shall have been made or given, as the case may be.

*Defeasance or condition of every Bill of Sale to be written on the same paper or parchment.*

II. If such Bill of Sale shall be made or given, subject to any defeasance or condition or declaration of trust not contained in the body thereof, such defeasance condition or declaration of trust shall, for the purposes of this Act, be taken as part of such Bill of Sale, and shall be written on the same paper or parchment on which such Bill of Sale shall be written, before the time when the same or a copy thereof respectively shall be filed, otherwise such Bill of Sale shall be null and void to all

intents and purposes against the same persons and as regards the same property and effects as if such Bill of Sale or a copy thereof had not been filed according to the provisions of this Act.

*Registrar General to keep a Book containing particulars of each Bill of Sale.*

III. The Registrar General shall cause every Bill of Sale and every such Schedule and Inventory as aforesaid, and every such copy filed in his said office under the provisions of this Act, to be numbered, and shall keep a book or books in his said office, in which he shall cause to be fairly entered an alphabetical list of every such Bill of Sale, containing therein the name, addition and description of the person making or giving the same, or in case the same shall be made or given by any person under or in the execution of process as aforesaid, then the name, addition and description of the person against whom such process shall have issued, and also of the person to whom or in whose favor the same shall have been given, together with the number and the date of the execution and filing of the same, and the sum for which the same has been given, and the time or times (if any) when the same is thereby made payable, according to the form contained in the Schedule to this Act; which said Book or Books, and every Bill of Sale or copy thereof filed in the said office may be searched and viewed by all persons at all reasonable times, paying to the Registrar General for every search against one person, the sum of one shilling; and that in addition to the last mentioned Book the said Registrar General shall keep another Book or Index, in which he shall cause to be fairly inserted as and when such Bills of Sale are filed in manner aforesaid, the name, addition and description of the person making or giving

the same, or if the person against whom such process shall have issued, as the case may be, and also of the persons to whom or in whose favor the same shall have been given, but containing no further particulars thereof; which last mentioned Book or Index all persons shall be permitted to search for themselves, paying to the Registrar General for such last mentioned search the sum of one shilling.

*Registrar General to take a Fee of Four Shillings and Two Pence for Filing Bill of Sale.*

IV. The said Registrar General shall be entitled to receive for filing and entering every such Bill of Sale, or a copy thereof as aforesaid, the sum of four shillings and two pence, and no more.

*Fees to be paid into Treasury.*

V. All moneys received under this Act shall be paid into the Treasury of Vancouver Island for the use of Her Majesty, Her Heirs and Successors.

*Copies.*

VI. Any person shall be entitled to have an office copy or an extract of every Bill of Sale or of the copy thereof filed as aforesaid, upon paying for the same at the rate of nine pence per folio.

*Chief Justice may order satisfaction to be entered.*

VII. It shall be lawful for the Chief Justice of the Supreme Court to order a memorandum of satisfaction to be written upon any Bill of Sale or copy thereof respectively as aforesaid, if it shall appear to him that the debt (if any) for which such Bill of Sale is given as security, shall have been satisfied or discharged.

*Interpretation.*

VIII. In construing this Act, the follow-

ing words and expressions shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such constructions; that is to say, the expression "Bill of Sale" shall include Bills of Sale, Assignments, Transfers, Declarations of Trust without transfers, and other assurances of personal Chattels, and also Powers of Attorney, Authorities or Licences to take possession of personal Chattels as security for any debt; but shall not include the following documents, that is to say, Assignments for the benefit of the Creditors of the person making or giving the same, Marriage settlements, Transfers or Assignments of any Ship or Vessel or any share thereof, Transfers of Goods in the ordinary course of business of any trade or calling, Bills of Sale of Goods in foreign parts or at sea, Bills of Lading, India Warrants, Warehouse Keepers' Certificates, Warrants or orders for the delivery of goods; or any other documents used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of such document to transfer or receive goods thereby represented. The expression "Personal Chattels" shall mean Goods, Furniture, Fixtures, and other articles capable of complete transfer by delivery, and shall not include Chattel interest in Real Estate, nor shares or interests in the Stock Funds or Securities of any Government, or in the Capital or property of any Incorporated or Joint Stock Company, nor choses in action, nor any Stock or produce upon any Farm or Lands which by virtue of any covenant or agreement, or of the custom of the country, ought not to be removed from any Farm where the same shall be at the time of the

making or giving of such Bill of Sale. Personal Chattels shall be deemed to be in the apparent possession of the person making or giving the Bill of Sale, so long as they shall remain or be in or upon any House, Mill, Warehouse, Building, Works, Yard, Land, or other premises occupied by him, or as they shall be used and enjoyed by him in any place whatsoever, notwithstanding that formal possession thereof may have been taken by or given to any other person.

*Short Title.*

IX. This Act may be cited as "The Bills of Sale Act, 1861."

Passed the House of Assembly 25th July, 1861.  
Council amendments agreed to 4th November, 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 29th day of October, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 29th day of November, A. D. 1861.

JAMES DOUGLAS.

SCHEDULE.

Name, &c., of the person making or giving the Bill of Sale, or of the person divested of property.	Name, &c., of the person to whom made or given.	Whether Bill of Sale, Assignment, Transfer, or what other assurance, and whether absolute or conditional; and number.	Date of Execution	Date of Filing.	Sum for which made or given £ s. d.	When and how payable.





# AN ACT

## To Regulate the Business of Pawnbrokers.

**WHEREAS**, it is expedient to regulate the business of Pawnbrokers, and hinder unlawful pawning in this Colony.

Be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and House of Assembly of Vancouver Island and its dependencies.

### *Interpretations.*

I. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction, that is to say—

**NUMBER**—Words purporting the singular number only, shall include the plural number; and words importing the plural number only, shall include also the singular number.

**GENDER**—Words importing the masculine gender only, shall also include the feminine.

**MONTH**—The word “month” shall mean calendar month.

**GOODS**—The word “goods” shall include chattels of every kind offered or taken in pawn or pledge.

**PAWNBROKER**—The word “Pawnbroker” shall include all persons in association or partnership to exercise or carry on the trade or business of Pawnbroker.

**PAWNING**—The word “pawning” shall include pledging and exchanging, and inversely.

**DUPLICATE**—The word “Duplicate” shall mean the note or memorandum delivered by any Pawnbroker on receiving any pawn or pledge.

### *Who Deemed Pawnbrokers.*

II. All persons who shall receive by way of pawn, pledge, or exchange, any goods for repayment of money under Twenty Pounds lent thereon, shall be deemed Pawnbrokers.

### *Act to Extend to Executors, etc. of Pawnbrokers.*

III. The provisions of this Act shall extend to and include the Executors, Administrators, and Assigns of all and every deceased pawnbroker in the same manner as the same extend to and include the Pawnbroker when living, save and except that no such Executor or Administrator shall be answerable for any penalty or forfeiture personally, or to be paid out of

his moneys or estate unless the same shall be incurred and forfeited by his own act and neglect.

*Act not to Extend to Persons Lending More than £20.*

IV. Nothing in this Act shall extend or be construed to extend to any person who shall lend money upon pawn or pledge to a greater amount than Twenty Pounds in one sum.

*Liability of Pawnbrokers from Loss from Fire.*

V. All Pawnbrokers shall be liable for the loss of redeemable pledges by Fire, if such pledges are kept in any place in respect of which the Surveyor General shall not have granted a certificate in the form marked A. contained in the schedule hereto.

*Security for Performance of Duties.*

VI. Before the grant of any Licence to any Pawnbroker, such Pawnbroker shall enter into a Bond with the Colonial Secretary of Vancouver Island and its dependencies, with two undoubted sureties in the sum of £1000 for the due performance of every contract of pawnbroking entered into by the said Pawnbroker with any other person, and for the safe keeping of the pledges for the time being subject to redemption entrusted to him.

*Personal Right of Pawner to Sue on such Security.*

VII. Any person who shall have recovered judgment against any Pawnbroker in respect of any breach of contract of Pawnbroking, may sue the Pawnbroker and his sureties, or either of them on the said Bond, in his own name for the amount mentioned in the said judgment.

*Pawnbrokers to Take Out A Licence for Each House.*

VIII. Every person or company of per-

sons exercising the trade or business of Pawnbroker shall take out a licence for each and every shop or place where he or they shall carry on such business, and shall renew the same licence annually under pain of forfeiting the sum of Fifty Pounds.

*Annual Licence.*

IX. The person taking out such Licence shall pay into the Treasury for the use of Her Majesty, Her Heirs and Successors, such annual sum as shall be fixed by law in that behalf.

*Licences—When and How Granted.*

X. All such Licences may be granted by the Justices of the Peace in Quarter Session, at their discretion, and shall be for one year from the 1st day of January in each year. Provided nevertheless that the Justices may, and they are hereby authorised, from time to time, to grant to or for any shop or place not yet licensed, a licence for a shorter period than one year, but not less than three months, and that such licence shall terminate, as well as the licences for one year, on the 31st day of December. Provided also, that no licence shall be granted without due inquiry and information as to the character of the party applying for the same, nor without a certificate from the Colonial Secretary that the Bond aforesaid has been duly executed.

*Pawnbroker's Name and Business to be Placed Over his Door, on Penalty of £10.*

XI. Every Pawnbroker shall cause to be painted or posted in large legible characters over the door of each shop or place used by him for the said business, his Christian and surname, followed by the word "Pawnbroker," on pain of forfeiting the sum of Ten Pounds for every shop or place which shall be so made use of for the

space of one week without having such names and word posted as aforesaid.

*Pawnbrokers to Place in View an Abstract from this Act.*

XII. Every Pawnbroker shall cause to be painted, printed or written in large legible characters, an abstract of the provisions of this Act in form marked B. contained in the schedule hercunto annexed, and shall place the same in a conspicuous part or parts of the shop or place where his business is carried on, so as to be visible and legible by every person coming to pawn or redeem goods.

*Pledge not to be Taken from Persons under 12 Years of age, or intoxicated, nor Duplicates from other Pawnbrokers.*

XIII. No Pawnbroker shall purchase or receive, or take away any goods in pledge of or from any person who shall appear to be under the age of twelve years; or to be intoxicated; nor employ any servant or apprentice or any other person under the age of sixteen years, to take in any pawn or pledge; nor receive or take in any goods by way of pawn, pledge, or exchange, before the hour of five in the morning, or before sunrise when later than five, nor after eight o'clock at night.

*Pawns to be Entered in Books to be Kept.*

XIV. Every Pawnbroker shall before advancing or lending any money upon any pawn or pledge whatsoever, enter or cause to be entered, in a fair and regular manner, in a Book for that purpose, a description of the goods received in pawn, pledge, or exchange, and also the sum of money to be advanced or lent thereon, with the day of the month and year on which, and the name of the person by whom such goods are so pawned, and the name of the

street, number of the house, or other sufficient description of the place where such person may abide, and whether he be a lodger or housekeeper, by using the letters L. or H. accordingly; and also the name and place of abode of the owner according to the information of the party pawning the goods; into all which circumstances the Pawnbroker is hereby required to enquire of the aforesaid party before any money shall be lent or advanced; and every such entry shall be numbered progressively from No. 1 onward, beginning with each licensed year and ending with the same.

*Pawnbrokers to Give Duplicates.*

XV. Every Pawnbroker shall, at the time of taking any pawn, pledge or exchange whatsoever, deliver gratis to the person so pawning, a fair and legible note or memorandum called "duplicate," bearing the same number and description and all the other details required in the aforesaid entry, and moreover the name and place of abode of the Pawnbroker giving the same, nor shall he receive or retain such pledge unless the party pawning or offering to pawn shall accept and take such duplicate, the which shall be produced to the Pawnbroker, save as hereinafter provided, before he shall be obliged to re-deliver the goods so pawned.

*Rate of Profit Allowed to be Taken by Pawnbrokers.*

XVI. It shall be lawful for every Licensed Pawnbroker to demand, receive and take of and from every person applying or offering to redeem any goods pawned with said Pawnbroker, a profit or interest over and above the principal sum, which shall have been by him lent and advanced thereon, before he shall be obliged to re-deliver the same, such rate of interest or profit to be not greater than

five per centum for any time during which the said pledge shall remain in pawn, not exceeding one month, and the same for every month afterwards, including the current month in which such pledge shall be redeemed, although such month be not expired; and such profit shall be taken in lieu of and as a full satisfaction for all interest due, and charges for warehouse room or others.

*Limiting the Profits for Part of a Month.*

XVII. Nevertheless, in all cases where the party entitled thereto shall apply to redeem the goods within seven days after the expiration of the first or any succeeding month, after the same shall have been pawned, the Pawnbroker shall take no profit for the said seven days or such part thereof as shall then have elapsed.

*Persons Producing Duplicate deemed the Owners as Against the Pawner of the Goods.*

XVIII. Any person who shall at any time produce a Duplicate to the Pawnbroker, to whom the goods therein specified were pawned, as being the owner thereof, or as authorized by the owner to redeem the same, and require their delivery, such person shall be and is hereby deemed and taken to be, so far as respects the person having such goods in pledge, the real owner and proprietor of such goods, and the Pawnbroker is hereby directed and required, after receiving due payment according to this Act, to deliver such goods to the person who shall so produce the said duplicate, and such Pawnbroker shall be and is hereby indemnified for so doing, unless previously notified by the real owner of the goods, not to deliver the same to the person producing such duplicate, or unless notice shall have been given to him that the goods pawned have been or are reputed to have been fraudu-

lently taken and obtained or unless the real owner thereof proceeds in manner hereinafter provided and directed for the redeeming of goods pawned where such Duplicate has been lost, mislaid, destroyed or fraudulently obtained from the owner thereof.

*Where Duplicates lost, the Pawnbroker to deliver a copy and form of declaration to claimant, on proof of which the Goods may be redeemed.*

XIX. In case any Pawnbroker shall have had such previous notice as aforesaid, or in case any duplicate shall have been lost, mislaid or destroyed, or fraudulently obtained from the owner thereof, and the goods mentioned therein shall remain unredeemed, then such Pawnbroker shall at the request and application of any person representing himself as aforesaid to be the owner of the goods in pledge, deliver to such person so requesting and applying for the same, and on payment of one shilling a copy of the duplicate so lost, mislaid, destroyed, or fraudulently obtained, together with the form of a declaration at the bottom of the said copy, of the particular circumstances attending the case. And such declaration of ownership shall be verified and proved to the satisfaction of some Justice of the Peace, and if so, be by him authenticated, whereupon such Pawnbroker shall suffer said person on leaving such copy and declaration with him, to redeem the said goods.

*Amount of profits to be endorsed on duplicates and the same kept twelve months.*

XX. In all cases where any goods shall be redeemed, the Pawnbroker shall at the time of such redemption fairly and legibly endorse upon every duplicate respecting such pawn or pledge, the full amount of the profit or interest taken, with the date thereof, and shall keep such duplicate in

his custody for the space of one year then next following.

*Pawned Goods when deemed forfeited.*

XXI. All goods pawned or pledged as aforesaid, shall, except as hereinafter provided, be absolutely forfeited if not redeemed at the expiration of six months from and exclusive of the day whereon they were pawned, any doctrine of law or equity heretofore held to the contrary notwithstanding.

*Further Allowance of Time on Notice Being Given.*

XXII. In case any person entitled to redeem any goods in pawn, shall before or upon the expiration of the said six months, give notice in writing, or in the presence of one witness, to the person having the same in pledge, or leave notice in the same manner at his usual place of abode, of his intention to redeem, then such goods shall not be absolutely forfeited until the expiration of one month more, during which the owner of said goods shall have liberty to redeem the same upon the terms provided by this Act.

*Penalty on Pawnbrokers who will not deliver up goods to Pawner.*

XXIII. If within the six months aforesaid, or the seven months as the case may be, after the pawning or pledging of any goods, satisfactory proof thereof having been made before any Justice by declaration and producing the duplicate of the Pawnbroker, the pawner who was the real owner of said goods at the time of pawning the same or his administrators or assigns, shall tender unto the Pawnbroker who lent on such security the sum borrowed thereon, together with the profit according to the rate by this Act established, and said Pawnbroker shall thereupon, without showing reasonable cause

for so doing, to the satisfaction of such Justice, neglect or refuse to deliver back the goods so pawned, and if such tender shall be proved to have been so made and refused, then any such Justice may upon hearing, commit the Pawnbroker so refusing until the said goods so pawned and still redeemable, be by him delivered up, or shall order such other satisfaction or compensation to the pawner as by such practice shall be adjudged reasonable for the value thereof together with costs.

*Goods forfeited to become the Property of the Pawnbroker.*

XXIV. All goods absolutely forfeited as aforesaid, shall become the property of the Pawnbroker having the same in pawn.

*Pawnbroker Selling Goods Before Limited Time, or injuring them, shall make a reasonable satisfaction, on penalty of £10.*

XXV. If in the course of any proceedings under this Act, it shall appear or be proved to the satisfaction of any Justice that any goods pawned as aforesaid are not produceable, or have been embezzled, or lost, save by fire or unavoidable casualty, or are become or have been rendered of less value than at the time of pawning them, by or through the default, neglect, or wilful misbehavior of the Pawnbroker, his agents, servants, executors, administrators or assigns, then it shall be lawful for such Justice and he is hereby required to allow and award a reasonable satisfaction to the owner of such goods in respect thereof, or of such damage, to be deducted out of the aforesaid principal and profit due to the said Pawnbroker, if the same be more than sufficient, and if such satisfaction shall equal or exceed the amount of principal and profit aforesaid, then the Pawnbroker shall deliver the goods to the owner without receiving any compensa-

tion, and shall also pay such excess, if any, to the owner, under a penalty not exceeding £50.

*Penalty Against Unlawfully Pawning Goods the Property of Others.*

XXVI. If any person shall knowingly and designedly pawn, pledge or exchange, or unlawfully dispose of the goods or chattels of any other person, not being employed or authorized by the owner thereof so to do, or if he pawn the same being authorized or employed so to do, by friendly transaction and connivance of the owner, with intent to defraud the Pawnbroker, it shall be lawful for any Justice to grant his warrant to apprehend any of the parties so offending, and on conviction every such offender shall, for every such offence, forfeit any sum not exceeding ten pounds, nor less than one pound, and also the full value of the goods so pawned, pledged, or exchanged or disposed of, such value to be ascertained by said Justice, and when recovered, applied towards making satisfaction to the party injured, and defraying costs, as shall by said Justice be adjudged reasonable.

*Forging, Counterfeiting or Altering Duplicate, Punished by Imprisonment.*

XXVII. If any person shall counterfeit, forge, or alter, or cause or procure to be counterfeited, forged, or altered, any duplicate as aforesaid, or shall utter, vend, or sell any such duplicate, knowing the same to be counterfeited, forged, or altered, with intent to defraud, such person shall on conviction be committed to prison for any time not exceeding three months: and it shall be lawful for any person, his servants or agents, to whom any such duplicate shall be uttered or produced, shown or offered, which they shall have reason to suspect to have been counterfeited, forged, or altered, to seize or detain

such person uttering, producing, showing or offering the same, and to deliver him into custody.

*Persons not giving a good account of themselves on offering to pawn goods, liable to punishment.*

XXVIII. In case any person shall offer by way of pawn, pledge, exchange, or sale, any goods or chattels and shall not be able, or shall refuse to give a satisfactory account of himself, or of the means by which he became possessed of the same, or shall wilfully give any false information to the Pawnbroker, his servants or agents, as to whether such goods are his own property or not, or of his name and place of abode, or of the name and place of abode of the owner of said goods, or if there shall be any other reason to suspect that such goods are stolen or otherwise illegally or clandestinely obtained, or if any person not entitled nor having any color of title by law to redeem goods in pledge, shall attempt or endeavor to redeem the same, it shall be lawful for such Pawnbroker, his servants or agents to whom such goods shall be so offered, or with whom such goods are in pledge (and if in their power they are hereby required) to seize and detain such person and the goods, and to deliver him immediately into custody, together with the same. And if upon examination and enquiry any Justice shall have cause to suspect that said goods were stolen, or illegally or clandestinely obtained, it shall be lawful for him to detain such person, and on conviction to commit him, for any time not exceeding three months, or to be otherwise dealt with according to law.

*Empowering Peace Officers to search for goods unlawfully pawned, which shall be restored to the owner.*

XXIX. If the owner of any goods unlawfully pawned shall make a declaration to that effect before a Justice of the Peace, and

that there is just cause to suspect any person of having taken the same to pawn without the privity or authority of such owner thereof, the Justice may, if satisfied, issue a warrant for searching, within the hours of business, the house, warehouse, or other place, of any Pawnbroker or other person so charged as aforesaid, and if on request made by any Peace Officer the occupier of such house, warehouse or other place, refuse to open the same and permit such search, it shall be lawful for such officer to break open the same, and to search as he shall think fit, doing no wilful damage; and no Pawnbroker or other person shall oppose or hinder any such search; and the Justice shall cause any such goods so found and verified to be forthwith restored to the owner thereof, either with or without compensation.

*Pawnbrokers shall produce their Books when necessary, on penalty from £50 to £5.*

XXX. It shall be lawful for any Justice upon information duly laid against any Pawnbroker for any offence against this Act, or respecting any dispute between any Pawnbroker and person having pawned goods, or being the owner of goods pawned, or respecting any felony or other matter, or on any other occasion whatsoever which in the judgment of any Justice shall make the production of any book, note, voucher, memorandum, duplicate, or other paper necessary, which shall, or ought to be in the hands, custody or power of any Pawnbroker, to summon such Pawnbroker before him to attend with all and every or any such book or paper as aforesaid relating to the same, and which he is hereby required to produce before said Justice in the state the same was or were made at the time the pledge was received without any alteration, erasure, or obliteration whatsoever, and in case such

Pawnbroker shall neglect or refuse to attend, or to produce the same in its true and perfect state, he shall, in case he does not show good cause for such neglect or refusal, forfeit any sum not exceeding Fifty Pounds nor less than Five.

*Penalties on Pawnbrokers not before specified.*

XXXI. In case any Pawnbroker shall in anywise offend against this Act, he shall forfeit for every offence where no forfeiture or penalty is hereinbefore provided or imposed on any particular or specific offence, not less than Forty (40) Shillings nor more than Forty (40) Pounds.

*Time of prosecution or information limited to 12 Months.*

XXXII. No Pawnbroker shall be liable to any prosecution or information under this Act unless information be given against him within twelve months after the offence committed.

*Penalties enforceable by distress.*

XXXIII. All forfeitures or penalties under this Act may be sued for and recovered before any Justice of the Peace, and shall and may be levied by distress and sale by warrant under the hand and seal of such Justice.

*No Fees shall be taken.*

XXXIV. No fee shall be taken for any Summons or Warrant granted under this Act, so far as the same relates to goods pawned, pledged, taken in exchange, or unlawfully disposed of.

*General Issue.*

XXXV. Any person sued under this Act may plead the general issue, and give the special matter in evidence for his defence and on verdict for the defendant, or if the plaintiff be nonsuited, then the defendant shall be entitled to a full indemnity against costs.

*Appeal on entering into Recognizances.*

XXXVI. Any person convicted under this Act shall have liberty to appeal to the Justices at the next General or Quarter Session, on entering into a recognizance at the time of conviction with two sufficient sureties, in double the sum adjudged to be paid or forfeited; and the execution of the judgment shall in such case be suspended.

*Short Title.*

XXXVII. This Act may be cited as the "Pawnbroker's Act 1861."

Passed the House of Assembly the 13th day of September, 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 22d day of November, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 28th day of November, A. D. 1861.

JAMES DOUGLAS.

SCHEDULE A.

I hereby certify that the (House, Warehouse, &c., ..... being apt words of description of the place desired to be certified) is a safe place for the deposit of property perishable by fire, and is calculated to sufficiently withstand the ordinary attacks of Fire.

(Signed) .....  
Surveyor General.

SCHEDULE B.

ABSTRACT FROM THE "PAWNBROKER'S ACT 1861."

*Duplicate to be given gratis.*

SECTION XV. Every Pawnbroker shall at the time of taking any pledge, deliver in return, gratis, a fair and legible *duplicate*, to be produced to the Pawnbroker on redeeming the same.

*Rate of Interest.*

SECTION XVI. The rate of Interest or Profit allowed shall not exceed *Five per Cent per Month*, including the month in which the goods are redeemed.

SECTION XVII. Nevertheless when the goods are redeemed within *seven days* after the expiration of any month, no profit shall be taken for the seven days, or such part thereof as shall have then elapsed.

*Lost Duplicates.*

SECTION XIX. In case any duplicate shall be lost, mislaid, destroyed, or fraudulently obtained, a copy of the duplicate, together with a form of declaration of the circumstances attending the case, shall be delivered by the Pawnbroker at the request of the person applying for the same, and on payment of one shilling.

*Forfeiture at the end of Six Months.*

SECTION XXI. All goods shall be deemed forfeited at the end of *six months*, exclusive of the day whereon they were pawned.

*On request Forfeiture to be postponed for another month.*

SECTION XXII. Nevertheless on notice being given in writing, or in the presence of one witness, on or before the expiration of the above six months, the goods shall not be disposed of for one calendar month longer.



V.



R.

# AN ACT

## To facilitate the remedies on Bills of Exchange and Promissory Notes by the prevention of frivolous or fictitious defences to actions thereon.

WHEREAS, bona fide holders of dishonored Bills of Exchange and Promissory Notes are often unjustly delayed and put to unnecessary expense in recovering the amount thereof by reason of frivolous or fictitious defences to actions thereon, and it is expedient that greater facilities than now exist should be given for the recovery of money due on such Bills and Notes :

Be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Colony of Vancouver Island and its dependencies as follows :

*From the passage of this Act all actions upon Bills of Exchange may be by Writ of Summons as in the Form in schedule A. Plaintiff on filing affidavit of personal service may at once sign final judgment as in form in schedule B.*

I. From and after the passage of this Act all actions upon Bills of Exchange or

Promissory Notes commenced within six months after the same shall have become due and payable, may be by writ of summons in the special form contained in schedule A., to this Act annexed, and endorsed as therein mentioned, and it shall be lawful for the Plaintiff on filing an affidavit of personal service of such Writ within the jurisdiction of the Court, or an order for leave to proceed as provided by the Common Law Procedure Act 1852, and a Copy of the Writ of Summons and the indorsements thereon in case the Defendant shall not have obtained leave to appear and have appeared to such Writ according to the exigency thereof, at once to sign final judgment in the form contained in schedule B. to this Act annexed (on which payment no proceeding in error shall lie) for any sum not exceeding the sum indorsed on the Writ, together with interest at the rate specified (if any) to the date of judgment, and a sum for costs to be fixed by the Chief Justice of Vancouver Island, unless the Plaintiff claim more

than such fixed sum, in which case the costs shall be taxed in the ordinary way, and the Plaintiff may upon such judgment issue Execution forthwith.

*Defendant showing a defence upon the merits, to have leave to appear.*

II. The Chief Justice shall, upon application within the period of twelve days from such service, give leave to appear to such writ and to defend the action on the Defendant paying into Court the sum endorsed on the Writ, or upon affidavits satisfactory to the Judge, which disclose a legal or equitable defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Chief Justice may deem sufficient to support the application, and on such terms as to security or otherwise as to the Chief Justice may seem fit.

*Chief Justice may under special circumstances set aside judgment.*

III. After judgment the Chief Justice may, under special circumstances, set aside the judgment, and if necessary stay or set aside Execution, and may give leave to appear to the Writ and to defend the Action, if it shall appear to be reasonable to the Chief Justice so to do, and on such terms as may seem just.

*Chief Justice may order Bill to be deposited with officer of Court.*

IV. In any proceedings under this Act it shall be competent to the Chief Justice to order the Bill or note brought to be proceeded upon, to be forthwith deposited with an officer of the Court and further to order that all proceedings shall be stayed until the Plaintiff shall have given security for the costs thereof.

*Remedy for recovery of costs of noting non-acceptance of dishonored Bills.*

V. The holder of every dishonored Bill of Exchange or Promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise by reason of such dishonor as he has under this Act for the recovery of the amount of such Bill or note.

*Holder of Bill of Exchange may issue one Summons against all or any of the parties to the Bill.*

VI. The holder of any Bill of Exchange or Promissory note may, if he think fit, issue one Writ of Summons according to this Act against all or any number of the parties to such Bill or note, and such Writ of Summons shall be the commencement of an action or actions against the parties therein named respectively, and all subsequent proceedings against such respective parties shall be in like manner, so far as may be, as if separate Writs of Summons had been issued.

*Common Law Procedure Acts and Rules incorporated in this Act.*

VII. The Provisions of the Acts of the Imperial Parliament named the "Common Law Procedure Act 1852, and the Common Law Procedure Act 1854," and all Rules made under or by virtue of either of the said Acts shall so far as the same are or may be made applicable, extend and apply to all proceedings to be had or taken under this Act.

*Short Title.*

VIII. This Act may be cited as "The Summary Procedure on Bills of Exchange Act, 1861."

Passed the House of Assembly 19th July, 1861.  
Council amendments agreed to 4th November, 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 29th day of October, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 28th day of November, A. D. 1861.

JAMES DOUGLAS.

SCHEDULE A.

Victoria, by the Grace of God, etc.

To C. D. of .....

..... We warn you.....  
that unless within Twelve days after the service of this Writ on you, inclusive of the day of such service, you obtain leave from the Chief Justice of Vancouver Island and its dependencies, to appear and do within that time appear in our ..... Court of ..... in an Action at the suit of A. B., the said A. B. may proceed to Judgment and Execution.

Witness, etc.....

[Memorandum to be subscribed on the Writ.]

N. B. This Writ is to be served within six Calendar months from the date hereof, or if renewed, from the date of such renewal, including the day of such date, and not afterwards.

[Indorsement to be made on the Writ before service thereof.]

This Writ was issued by E. F., of ..... Attorney for the Plaintiff,  
or

This Writ was issued in Person by A. B., who resides at .....

INDORSEMENT.

The Plaintiff claims..... principal and interest, or balance of principal and interest, due to him as the Payee or Indorsee of a Bill of Exchange or Promissory note, of which the following is a copy :

[Here copy Bill of Exchange or Promissory note, and all Indorsements upon it.]

And if the amount thereof be paid to the Plaintiff or his Attorney within..... days from the service thereof, further proceedings will be stayed.

NOTICE.

Take notice, that if the Defendant do not obtain leave from the Chief Justice of Vancouver Island and its Dependencies within twelve days after having been served with this Writ, inclusive of the day of such service, to appear thereto, and do within such time cause an appearance to be entered for him in the Court out of which this writ issues, the Plaintiff will be at liberty at any time after the expiration of such twelve days to sign final judgment for any sum not exceeding the sum above claimed, and the sum of..... for costs, and issue Execution for the same.

Leave to appear may be obtained, on an application at the Chief Justice's Chambers, Victoria, supported by affidavits shewing that there is a defence to the action on the merits, or that it is reasonable that the Defendant should be allowed to appear in the action.

[Indorsement to be made on the Writ after service thereof.]

This Writ was served by X. Y. on L. M. (the defendant) on the ..... day of ..... 18.....

SCHEDULE, B.

In the Supreme Court of Civil Justice on the..... day of ..... in the year of Our Lord, 18..... (day of signing Judgment).

Vancouver Island and its Dependencies (to wit) A. B. in his own person (or by his Attorney) sued out a Writ against C. D., Indorsed as follows :

[Here copy Indorsement of Plaintiff's claim.]

And the said C. D. has not appeared. Therefore it is considered that the said A. B. recover against the said C. D. .... together with ..... for costs of suit.



# AN ACT

## To enlarge the time limited by the Victoria Gas Company's Act, 1860, for the establishment of Gas Works and Buildings by the Victoria Gas Company.

WHEREAS, by the third section of the said Act, it is declared that the said Company shall, within one year from the passage of the said Act, unavoidable casualties of the sea and fire not preventing, establish Gas Works and Buildings adequate to the supply of the Town of Victoria, and lay not less than Five Thousand feet of Mains of an adequate diameter, and supply therefrom to all persons as thereafter mentioned, an adequate amount of Gas of good quality at the house, shop, establishment or residence of the person requiring the same ;

And whereas the said Act was passed on the 19th day of December, A. D. 1860 :

And whereas it is expedient to extend the period within which the said Company shall establish, lay and supply the Works, Buildings, Mains and Gas aforesaid ;

Be it enacted by the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its dependencies :

*Extension of time for supplying Gas, granted.*

I. That the said Company shall and may establish, lay and supply the Works, Buildings, Mains and Gas aforesaid, within an additional period of Six Months from the expiration of the said Twelve Months mentioned in the said Victoria Gas Company's Act, 1860.

*Short Title.*

II. This Act may be cited as "The Victoria Gas Company's Extension Act, 1861."

Passed the House of Assembly the 5th December, 1861.

E. BOWERS DOCKETT,  
Clerk of the House of Assembly.

Passed the Council the 9th day of December, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 9th day of December, A. D. 1861.

JAMES DOUGLAS.



# AN ACT

## To amend the Trades Licences Act, 1860.

WHEREAS, it is expedient to alter and amend the Trades Licences Act, 1860 :

Be it enacted by the Governor on Her Majesty's behalf by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies :

### *Itinerant Traders to pay Licences.*

I. That from and after the passage of this Act, all persons using the trade of Merchandise by way of bargaining, exchange, bartering, commission, consignment or otherwise, in gross or by retail, and all persons who either for themselves or as Agents or Factors for others, seek their living by buying and selling, or buying or letting for hire, or by the workmanship of goods or commodities, and who shall not have some fixed place of business within the Colony used for the conduct of such trade, and who are hereinafter described as "Casual Traders," shall pay to the use of Her Majesty, Her Heirs and Successors, a Licence of Five Pounds per Annum, payable half-yearly, in lieu of the Assessment mentioned in the third section of the said Act.

*Exemption in favor of Trades in Clause IV. of original Act not to extend to Casual Traders.*

II. Provided that the exemption contained in the fourth clause of the Trades Licences Act, 1860, shall not extend to Casual Traders.

### *Assessment Scale Amendment.*

III. So much of the third section of the said Act as provides that an Assessment after the Scale marked "A" in the Schedule to the said Act, shall be paid to the use of Her Majesty, Her Heirs and Successors, is hereby repealed, so far as the said Scale is concerned, and in lieu thereof an Assessment after the Scale marked "A" in the Schedule hereto, shall be paid as in the said third section of the said Act is mentioned.

*Permanent Assessor when appointed to perform all the duties of Assessors.*

IV. Provided that in the event of the Governor appointing a permanent Assessor under the provisions of any Act authorizing him in that behalf, to be passed in the present or any future session of the Legislature, such Assessor shall

perform all the duties directed to be performed by the Assessors in the said "Trades Licences Act, 1860;" and all notices by the said "Trades Licences Act, 1860," required to be given to the Assessors, may be given to such permanent Assessor.

*Power of Assessors to resign, and for the appointment of new Assessors.*

V. Until the appointment of such permanent Assessor, the Assessors mentioned in the "Trades Licences Act, 1860" may resign from time to time, and the Governor may from time to time nominate an Assessor or Assessors in the stead of such resigning Assessor, or in the stead of any Assessor or Assessors who may die or be absent from the Colony for the space of one calendar month.

*Short Title.*

VI. This Act may be cited as the "Trades Licences Amendment Act, 1861."

Passed the House of Assembly the 4th day of November, 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 2d day of December, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 24th day of December, A. D. 1861.

JAMES DOUGLAS.

### SCHEDULE A.

			£	s.	d
	Under £	100, half yearly	1	0	0
£ 100	and under £	250, "	1	10	0
£ 250	"	£ 500, "	2	0	0
£ 500	"	£ 1,000, "	3	10	0
£ 1,000	"	£ 2,500, "	6	0	0
£ 2,500	"	£ 5,000, "	9	0	0
£ 5,000	"	£10,000, "	15	0	0
£10,000	"	£20,000, "	25	0	0
£20,000	"	£30,000, "	35	0	0
£30,000	"	£40,000, "	45	0	0
£40,000	"	£50,000, "	55	0	0
	Above £50,000,	"	60	0	0



# AN ACT

## To extend the provisions of the Limitation of Foreign Actions Act, 1860.

**WHEREAS**, it is expedient to extend the provisions of the Limitation of Foreign Actions Act, 1860:

Be it enacted by the Governor on Her Majesty's behalf, by and with the consent and advice of the Legislative Council and Assembly of Vancouver Island and its dependencies:

I. That no civil action or suit instituted after the passage of this Act shall be maintained on any Foreign Judgment, Order, or Decree, against any person who shall have been resident in Vancouver Island or its Dependencies for a space of two years subsequent to the obtaining of such Judgment, Decree, or Order.

II. That the benefit of the said Limitation of Foreign Actions Act, 1860, shall be obtained by any person pleading, as in the said Act mentioned, provided he can give evidence of the expiration of the period of limitation prescribed by the foreign law pleaded, irrespective of the question whether he has or has not passed

the entire period of limitation in such foreign country, and notwithstanding any provision in such law contained, limiting the benefit of the said Act to those who have continued within the said country during the full term of the period of limitation.

III. This Act may be cited as "The Extension of Limitation of Foreign Actions Act, 1861."

Passed the House of Assembly the 29th day of October, 1861.

Council amendments agreed to 16th December, 1861.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 2d day of December, 1861.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 24th day of December, A. D. 1861.

JAMES DOUGLAS.

U.



R.

# AN ACT

## To prohibit Swine and Goats from running at large in the Town of Victoria ; and to prohibit Goats from running at large in the settled Districts of Vancouver Island.

WHEREAS, it is expedient to protect property from the depredations of Swine and Goats running at large in the Town and District of Victoria, and other the settled Districts of Vancouver Island :

Therefore, Be it enacted by the Governor on Her Majesty's behalf by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, as follows :

*Unlawful for Swine and Goats to be at large in the Town, and for Goats to be at large in the District of Victoria.*

I. That from and after the expiration of fourteen days from the passage and publication of this Act as hereinafter provided, it shall be unlawful for the owners of Swine, Goats and Kids to suffer them to be at large within the limits of the Town of Victoria, and to suffer Goats and Kids to be at large within any of the settled Districts of Vancouver Island ; and all such animals as shall be so at large after the said period of fourteen (14) days,

shall be considered as trespassing, and may be dealt with as hereinafter provided.

*Owners, &c., of Premises to Shoot such Animals when Trespassing.*

II. That it shall be lawful for the owner or occupier, and for any servant of, or other person in charge for, or employed by the owner or occupier of land or other premises within the limits of the said Town, to shoot or otherwise wound or kill all Goats and Kids, Swine and Pigs, which shall be found trespassing upon or near to any such land or premises ; and no penalty or liability shall be incurred, and no compensation shall be due to the owner or owners of any of said animals by reason of said killing or wounding while trespassing, or because of trespassing on or near, or while escaping from such land or premises.

*Police empowered to destroy all such Animals as shall be found Trespassing.*

III. That it shall be the duty of the



Commissioner of Police, and he is hereby authorized, to order the Police to kill all and every of the before-mentioned animals which they shall find to be at large on the public streets and roads, and on any public or private property within the limits of the town of Victoria, as well as all Goats and Kids at large in the settled Districts of Vancouver Island; and all Justices of the Peace in the said Districts are also hereby authorized to order the destruction of all Goats and Kids at large in the said Districts. And no Policeman, Constable or other Peace Officer, or any person assisting either of them while acting under the authority of the said Commissioner of Police, or of any such Justice of the Peace, shall incur any liability or penalty by reason of the wounding or killing of any of said animals so trespassing.

*Limits of town defined.*

IV. That the limits of the town of Victoria shall, for the purposes of this Act, be as follows: Until the passage of some Act incorporating the city of Victoria, the said limits shall be the Electoral limits as now subsisting; and from and after the passage of such Act, the limits aforesaid shall be the same as those of the Municipality.

*This Act not to prohibit the keeping of Swine and Goats confined.*

V. Provided that nothing herein con-

tained shall be construed to prohibit persons from keeping Swine and Goats shut up or confined within suitable buildings or enclosures. Provided further, the keeping of the said animals in the buildings and enclosures mentioned, shall not occasion a nuisance.

*This Act to come into effect fourteen days after the passage thereof.*

VI. This Act shall take effect fourteen days after the passage and publication thereof, in one of the Newspapers published in Victoria.

Passed the House of Assembly the 10th day of January, 1862.

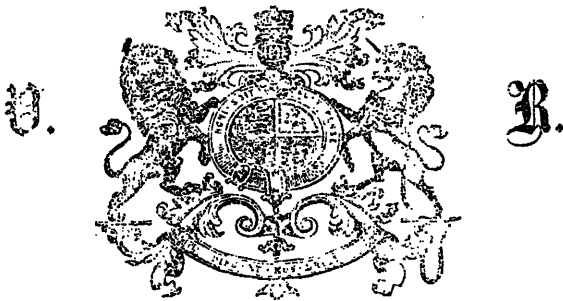
E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 2d day of December, 1861. Amendments of the House of Assembly agreed to the 13th day of January, 1862.

JOSEPH PORTER,  
Acting Clerk of the Council

Received my assent this 15th day of January, A. D. 1862.

JAMES DOUGLAS.



# AN ACT

## To declare the Law relating to Bankruptcy and Insolvency in Vancouver Island and its Dependencies.

**W**HEREAS, doubts have been entertained as to the application of the English Bankrupt and Insolvent Laws to this Colony.

And whereas, it is expedient to remove such doubts.

Be it enacted by His Excellency the Governor on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly, as follows:

I. The Laws of Bankruptcy and Insolvency in England, subject to the provisions of this Act, shall be deemed and taken to be the Laws of Bankruptcy and Insolvency within this Colony.

### AS TO THE COURT OF BANKRUPTCY.

II. The Jurisdiction in Bankruptcy shall be administered by the Chief Justice of Vancouver Island and its Dependencies, and by a Commissioner in Bankruptcy.

Jurisdiction in Bankruptcy vested in the Chief Justice of the Supreme Court and a Commissioner of Bankruptcy.

III. The Court of Bankruptcy shall have and exercise for the purposes of this Act, all the Jurisdiction, Powers and Authorities of the Superior Courts of Law and Equity, and shall be a Court of Record. And the said Court, and the Chief Justice and the Commissioner thereof, shall have and use all the powers, rights, incidents and privileges of a Court of Record, as fully as the same are used and enjoyed by any of Her Majesty's Courts of Law or Judges at Westminster. And the Chief Justice and the Commissioner shall singly and simultaneously or otherwise, as occasion may require, be and form the Court for every purpose under this Act, except where otherwise in this Act specially provided.

Powers of the Court.

Governor to appoint  
Commissioner.

IV. It shall be lawful for the Governor for the time being from time to time to appoint a fit person being a Sergeant-at-law or Barrister-at-law to be Commissioner in Bankruptcy. Such Commissioner shall be incapable of being elected a member of the House of Assembly, and shall (when appointed) have primary jurisdiction in all cases where an affidavit is filed in the Supreme Court by the Bankrupt, or any petitioning Creditor or Creditors, that the assets of the proposed Bankrupt do not amount to £500.

Jurisdiction.

Oath of Commissioner.

V. The Commissioner shall before executing any of the duties of his Office take the following oath which the Chief Justice is hereby authorized and required to administer :

"I, A. B. do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and power execute the office of Commissioner in Bankruptcy. So help me God."

#### AS TO THE OFFICERS OF THE COURT.

Registrar of Supreme  
Court to be Registrar  
and Taxing Master of  
Bankruptcy Court.

VI. The person discharging the duties of Registrar and Master of the Supreme Court of Civil Justice shall act as Registrar and Taxing Master in Bankruptcy.

Sheriff to act as Mes-  
senger.

VII. The Sheriff of Vancouver Island shall discharge the duties of Messenger in all matters of Bankruptcy and shall give such security in respect of such duties, and shall receive such remuneration in respect of such services as General Orders shall direct.

#### AS TO THE ACCOUNTANT IN BANKRUPTCY.

Registrar to be Ac-  
countant in Bankrupt-  
cy.

VIII. The duties of Accountant in Bankruptcy shall be discharged by the person discharging the duties of Registrar of the Supreme Court of Civil Justice.

#### THE OFFICIAL ASSIGNEE.

IX. It shall be lawful for the Chief Justice, with the approval of the Governor, to appoint some person or persons to act as Official Assignee or Assignees, who shall enter into such security for the due performance of his or their duties as may be directed by General Orders.

X. The remuneration of the Official Assignees shall be by percentage upon the amount of the assets of the Bankrupt divisible amongst his Creditors as and by way of dividend of such an amount as may be fixed by General Orders.

XI. In all cases of arrangement, supersession annulling suspension or withdrawal of proceedings in Bankruptcy, a proportionate amount of the per centage payable to the Official Assignee shall be ascertained by the Registrar, regard being had to the amount of work done by such Official Assignee which will not be required

in consequence of such supersession, annulling suspension or withdrawal, subject to the review of the Court.

AS TO THE TAXING MASTER.

XII. All Bills of Costs, Charges, Fees and disbursements of Solicitors and Attorneys, and of any Auctioneer, Appraiser, Broker, Valuer or Accountant, or any other person not being an Attorney or Solicitor, in any matter under this Act, shall be settled by the Registrar, subject to the review of the Court.

Bills of Costs to be Taxed subject to revision.

XIII. All fees authorized to be taken and which shall be received by the Officers of the Court under this Act, shall be accounted for and paid by them respectively once in every month to the Treasurer of the Colony, and shall be by him placed to the credit of the Accountant in Bankruptcy in an account to be entitled "The Registrar in Bankruptcy Account," and the said account shall be chargeable with the salaries of the Officers, and other expenses of the Court: and such salaries shall be fixed by the Governor, having regard to the nature and duties of the office, as he may think just. And the amount of fees so received and paid by such Officers shall be verified by the affidavits of the accounting party. And all such fees shall be applied solely to the purposes of the said Court. And no payments shall be made from the General Revenue of the Colony on account of the salaries of the Commissioner in Bankruptcy or of those of any of the Officers of said Court.

Fees prescribed by this Act to be accounted for and paid into the Treasury.

XIV. If any Judge, Commissioner, Registrar, Accountant, Master, Official Assignee, Clerk, or any other Officer of the Court of Bankruptcy, shall for anything done or pretended to be done under this Act, or under color of doing anything thereunder, fraudulently and wilfully demand or take or appoint or allow any person whatsoever to take for him or on his account, or for or on account of any person by him named, or in trust for him or for any other person by him named, any Fee, Emolument, Gratuity, sum of Money, or anything of value whatsoever other than is allowed by this Act, such person when convicted thereof shall forfeit and pay the sum of Five Hundred Pounds, and be rendered incapable of holding any office or place under Her Majesty.

Penalty on Officers Improperly Receiving Money.

AS TO GENERAL ORDERS.

XV. The Chief Justice shall (with the assistance of the Commissioner when such Commissioner shall be appointed) from time to time, and subject to the provisions of this Act, frame General Orders for the following purposes:

General Orders.

For regulating the practice and procedure of the Court of Bankruptcy, and the several Forms of Petitions, Orders, and other proceedings to be used in the Court in all matters under this Act.

For regulating the Duties of the various Officers of such Court.

For regulating the Fees payable and the Charges and Costs to be allowed with respect to all proceedings before such Court; provided always that the Court may vary or alter such Fees; but the Fees chargeable under Schedule A of this Act shall not be increased to a higher amount than by this Act prescribed.

For regulating the practice and procedure on Appeals.

For regulating the filing, custody and inspection of Records, and generally for carrying the provisions of this Act into effect.

General Orders may be rescinded and varied and submitted to the Legislature.

XVI. General Orders may be rescinded and varied from time to time, and all General Orders shall be laid before the Legislative Council and House of Assembly within one month after the making thereof, if the House of Assembly and Council be then sitting; or if not then sitting, within one month from the commencement of the then next session.

#### AS TO THE SITTINGS OF THE COURT.

Court to sit when business requires.

XVII. The Court of Bankruptcy shall sit for the despatch of business as necessity may require, Sunday, Christmas Day, Good Friday, Monday and Tuesday in Easter Week, and days appointed for public Fast or Thanksgiving, excepted, and at such other times as the Chief Justice may appoint by General Orders.

#### AS TO THE PRACTICE AND PROCEDURE OF THE COURT.

Evidence.

XVIII. The Court may in all matters take the whole or any part of the evidence, either viva voce on Oath, or by Interrogatories in writing, or upon affidavit, or by Commission abroad.

Sittings in Chambers.

XIX. The Chief Justice and Commissioner shall respectively sit at Chambers for the despatch of such Business as can without detriment to the public advantage arising from the discussion of questions in open Court be heard in Chambers, and when sitting at Chambers they shall have in all respects like power and jurisdiction as when sitting in Court, and the Chief Justice may direct from time to time that any matter pending before him shall be heard and decided by the Commissioner.

Attendance of Witnesses before Registrar.

XX. Parties and witnesses summoned before a Registrar shall be bound to attend in pursuance of such summons and shall be liable to Process of contempt in like manner as parties and witnesses are now liable thereto in case of default in attendance under any writ of subpoena; and all persons wilfully and corruptly swearing or affirming falsely before a Commissioner or Registrar sitting in Chambers, shall be liable to all the penalties, punishments and consequences of perjury.

Recusant Witness.

XXI. If any person examined before a Registrar shall refuse or decline to answer or to swear to or sign his examination when taken, the Registrar shall refer the matter to the Chief Justice or

Commissioner as the case may be, who shall have power to order the person so acting to pay the costs thereby occasioned.

XXII. In any Bankruptcy or any other proceeding within the jurisdiction of the Court, the parties concerned or submitting to such jurisdiction may at any stage of the proceedings by consent state any question or questions in a special case for the opinion of the Supreme Court, and the judgment of the Supreme Court shall be final, unless it be agreed and stated in such special case that either party may appeal.

Parties may at any stage of the Case state a Special Case.

XXIII. The parties may if they think fit, agree that upon the question or questions raised by such special case being finally decided, a sum of money fixed by the parties or to be ascertained by the Court or in such manner as the Court may direct, or any property, shall be paid, delivered or transferred by one of such parties to the other of them, either with or without costs.

A sum may be made payable by consent to abide the decision of the Case.

XXIV. The Court of Bankruptcy may direct the Registrar to attend at any place for the purpose of holding any meeting of Creditors, of receiving proof of debts, and generally for the prosecution of any Bankruptcy or other proceeding under this Act, and the traveling and incidental expenses of such Registrar, and of any Clerk or other Officer attending him, incurred in so acting, shall be settled by such Court and paid out of the assets of the Estate in respect of which such Registrar has so acted, and such Registrar so acting shall have and exercise all powers, except the power of Commitment, vested in such Court for the summoning and examination of persons or witnesses, and for requiring the production of Books, Papers and Documents. Provided always, that all Depositions and Examinations of persons and witnesses taken before such Registrar, and all acts done by him shall be reduced to writing and be signed by such Registrar, and shall be annexed to and form part of the proceedings.

Registrar to attend at such places as the Court may direct.

XXV. It shall be lawful for the Chief Justice or Commissioner to direct any question of fact to be tried and determined before the Chief Justice by the verdict of a special or common Jury. The Chief Justice may make all such Rules and Orders upon the Sheriff or any other person for procturing the attendance of a special or common Jury for the trial of such questions, as may be made by the Supreme Court, and also may make any other Orders which may be requisite for the purpose of such Trial, and every such Jury shall consist of persons possessing the like Qualifications, and shall be struck, summoned and balloted for and called in like manner as if such Jury were a Jury for the Trial of any cause in the said Supreme Court, and every Juryman so summoned shall be entitled to the same right and be subject to the same Duties and Liabilities, as if he had been duly summoned for the Trial of any cause in the said Supreme Court, and every party to any such proceeding shall be entitled to the same right as to

Court may direct question of fact to be tried.

challenge and otherwise, as if he were a party to a cause in the said Supreme Court, and at the Trial the Jury shall be sworn to try the said Question of fact, and a true Verdict to give thereon according to the Evidence.

**Court may direct Issues.**

XXVI. It shall be lawful for the Chief Justice and the Commissioner to direct one or more Issue or Issues to be tried in the said Supreme Court, and either by a special or common Jury, in like manner as is now done by the Court of Chancery.

**Form of Warrant.**

XXVII. Every Warrant issued by the Court under this Act shall be under the Seal of the Supreme Court and the hand of the Chief Justice or Commissioner as the case may be, and every Summons shall be under the hand of the Registrar and under the Seal of the Supreme Court.

**Documents and Copies may be ordered to be Sealed.**

XXVIII. The Court shall cause to be Sealed with the Seal of the Supreme Court all such Records, Proceedings, Documents, and copies of the same, as are by this Act or shall be by General Orders required to be so Sealed, and such other Records, Proceedings, Documents, and copies of the same, as the Court shall at any time direct.

**No Document to be Void for want of Form.**

XXIX. No Rule, Order, Warrant, or other Proceeding or Document required by this Act to be in a form given in the Schedule to this Act or to be given by any General Order, shall be invalidated by reason of any want of form or omission therein, if such want of form or omission shall not in the opinion of the Court before which the same shall be brought, be calculated to mislead or prejudicially affect any party.

#### AS TO APPEALS.

**Appeal from Commissioner to Chief Justice.**

XXX. Every Decision or Order of the Commissioner shall be subject to appeal before the Chief Justice, to be brought on by way of petition, motion, or special case. On the hearing thereof no new evidence shall be received without leave of the Chief Justice, and if such appeal shall not be presented within twenty-eight days from the date of the Decision or Order complained of, or within such further time as the Commissioner shall in any case allow, then such Decision or Order shall be final.

**Appeal from Chief Justice to Privy Council.**

XXXI. Every Decree or Order made by the Chief Justice shall be final, except in those cases where an amount of £300 or more is involved, in which case an appeal shall lie to the Privy Council.

**Chief Justice may remove proceedings.**

XXXII. On the hearing of any appeal the Chief Justice may exercise any part of his original Jurisdiction, and may, if he think fit, direct that the case or matter in which the order appealed from was made, be removed from the Jurisdiction of the Commissioner either wholly or in part, and be thenceforth prosecuted in

the Supreme Court, or in the Commissioner's Court, as he shall think fit.

AS TO THE PERSONS SUBJECT TO THIS ACT.

**XXXIII.** All Debtors, whether Traders or not, shall be liable to be declared and adjudged bankrupt, and be subject to the provisions of this Act, and in the procedure to obtain adjudication it shall no longer be necessary to show any trading on the part of the Debtor. All persons are liable to become Bankrupt.

**XXXIV.** If any person not being a Trader shall with intent to defeat or delay his Creditors depart this Realm, and with such intent remain abroad, or shall with such intent make any fraudulent Conveyance, Gift, Delivery, or Transfer of his Real or Personal Estate, or any part thereof respectively, such person shall be deemed to have thereby committed an Act of Bankruptcy, provided always that before any adjudication in Bankruptcy shall be made against the Debtor under this section, the following rule shall be observed : Acts of Bankruptcy by Non-Traders.

1. A copy of the petition for adjudication shall be served personally on the Debtor, either within the Jurisdiction, or in such place or country, or within such limits abroad as the Court shall upon application for that purpose direct.

2. Such copy of petition shall have endorsed thereon a memorandum in a form to be settled by General Orders specifying the time within which the Debtor is to appear on such petition and such time shall, when the service is to be made abroad, be the time which the Court shall think reasonable having regard to the place or country where the service is to be made.

3. In no case of service out of the Jurisdiction shall the time for appearance be less than thirty days after service.

4. If it shall appear that such Debtor is avoiding service of such petition, and that such service cannot reasonably be effected, the Court may order that a copy of the petition be served at the residence or last known place of abode of such Debtor in Vancouver Island, and shall in such order appoint a time for hearing the petition, which shall not be less than sixty days from the time of such service.

5. If at the time limited for appearance or at the expiry of the said sixty days, the Court shall at the hearing of such petition be satisfied that an act of Bankruptcy has been committed within the meaning of this section, it may adjudge such Debtor to be a Bankrupt.

**XXXV.** The Court may order the Messenger in Bankruptcy to seize and hold any property believed to have been the property of the person who has so departed this Realm at the time of his or her departure, upon the application of any person competent to present a petition for adjudication ex parte, such application being supported by affidavits verifying the departure with intent to delay



or defraud Creditors, and that the property was at the time of the departure in the apparent ownership of the person who has so departed; and the Court may vary, dismiss, suspend or support such order upon such terms as may seem expedient.

*Lying in prison an act of Bankruptcy.*

XXXVI. If any Debtor, whether a Trader or not, having been arrested or committed to prison for a Debt, or on any attachment for non-payment of money, shall upon such, or any other Arrest or Commitment for Debt or non-payment of money, or upon any detention for Debt, lie in prison for Fourteen Days, or having been arrested for any cause, shall lie in prison for Fourteen Days after any detainer for Debt lodged against him and not discharged, every such Debtor shall thereby be deemed to have committed an Act of Bankruptcy, or if any such Debtor having been arrested, committed or detained for Debt, shall escape out of prison or custody, every such Debtor shall be deemed to have thereby committed an Act of Bankruptcy from the time of such arrest, commitment or detention.

*Filing Declaration of Insolvency.*

XXXVII. If any Debtor, whether a Trader or not, shall file in the office of the Registrar, a declaration in writing in such form as General Orders shall direct, signed by such Debtor and attested by the Registrar or an Attorney or Solicitor, that he is unable to meet his engagements, every such Debtor shall be deemed thereby to have committed an Act of Bankruptcy at the time of filing such declaration, provided a petition for adjudication of Bankruptcy shall be filed by or against him within two months from the filing of such declaration.

*Execution for £50 to be an Act of Bankruptcy.*

XXXVIII. If any execution shall be levied by Seizure and Sale of any of the Goods and Chattels of any Trader Debtor upon any judgment recovered in any action personal for the recovery of any Debt or money demand exceeding Fifty Pounds; every such Debtor shall be deemed to have committed an Act of Bankruptcy from the date of Seizure of such Goods and Chattels. Provided always, that unless in the meantime a Petition for Adjudication of Bankruptcy against the Debtor be presented, the Sheriff or other Officer making the levy shall proceed with the execution, and shall at the end of seven days after the Sale pay over the proceeds, or so much as ought to be paid to the Execution Creditor, who shall be entitled thereto notwithstanding such Act of Bankruptcy, unless the Debtor be adjudged a Bankrupt within Thirty Days from the date of the Seizure, in which case the money so received by the Creditor shall be paid by him to the Assignee under the Bankruptcy; but the Sheriff or other Officer shall not incur any liability by reason of anything done by him as aforesaid.

*Goods taken under a fi fa to be sold at Public Auction.*

XXXIX. Whenever the Goods and Chattels of a Debtor are sold under an Execution upon any Judgment recovered in any action or suit brought for the recovery of a Debt, Money, Demand or Damages against any Debtor, such Goods and Chattels shall in

all cases but those of perishable commodities be sold by the Sheriff by Public Auction and not by Bill of Sale or Private Contract, and such Sale shall be publicly advertised by the Sheriff on and during three days next preceding the day of Sale. In the case of perishable commodities the Sheriff shall sell at his uncontrolled discretion.

AS TO AN ACT OF BANKRUPTCY BY NON-PAYMENT AFTER JUDGMENT  
DEBTOR SUMMONS.

XL. Every Judgment Creditor who is or shall be entitled to sue out against a Debtor a Writ of Capias ad Satisfaciendum, or to charge the Debtor in Execution, shall be entitled at the end of one week from the signing of Judgment to sue out against the Debtor, whether he be a Trader or not, and whether he be in custody or not, a Summons, to be called a Judgment Debtor Summons, requiring him to appear and be examined respecting his ability to satisfy the debt.

Judgment Summons.

XLI. Where, after the commencement of this Act, a Decree or Order of a Court of Equity or an Order in Bankruptcy or Insolvency or Lunacy, directing the payment of Money, is disobeyed by the Debtor, the same having been duly served upon him, and the person entitled to receive the Money or interested in enforcing payment of it, has obtained a peremptory order of the competent Jurisdiction fixing a day for payment, and the Debtor does not within seven days after service on him of the peremptory Order, or such Order having been duly served within seven days after the day fixed by the peremptory Order for payment (which shall last happen) pay the Money, or secure or tender or compound for it to the satisfaction of the Creditor, the Creditor shall be entitled at the end of those seven days to sue out against the Debtor a Judgment Debtor Summons.

Order in Equity or Bankruptcy for Payment Unsatisfied entitles Creditor to a Judgment Summons.

XLII. Where the Debtor is in Vancouver Island the Summons shall be served personally, unless the Court issuing the same shall in any case direct that service in some other manner is good service.

Judgment Debtor to be Served Personally, unless otherwise ordered.

XLIII. Where the Debtor is not in Vancouver Island the Court, upon such evidence as shall satisfy it that the service will be effectual to give notice to the Debtor, may order service to be made in such manner and form as it shall deem fit, and shall appoint a time by such order for the appearance of the Debtor.

Service out of the Jurisdiction.

XLIV. Where the Debtor is in custody, a duplicate of the Summons shall be delivered to the Sheriff or other person in whose custody he is, who shall bring him up according to the Summons.

Service on Prisoner.

XLV. If service of the Summons be not effected, and the Court is satisfied that the Debtor is keeping out of the way to avoid ser-

Substituted Service.

vice, it may order that one or more Notices be inserted in one or more Newspapers published in the Colony, requiring him to appear on a day named, being not less than Fourteen Days after the publication of the first notice.

**Proceedings on Judgment Debtor Summons.**

XLVI. Upon the appearance of the Debtor he may be examined upon oath by or on behalf of the Creditor, and by the Court, respecting his ability to satisfy the debt, and for the discovery of property applicable in that behalf, and shall be bound to produce on oath or otherwise such books, papers and documents in his possession or power relating to property applicable or alleged to be applicable to the satisfaction of the debt as the Court shall think fit, and to sign his examination when reduced to writing, and any Debtor refusing to be sworn, or who shall upon examination refuse or wilfully fail to discover fully and truly to the best of his knowledge and belief all his property real and personal, inclusive of his rights and credits, and to produce all books, papers and documents in his possession or power relating thereto, shall be liable to be committed by the Court, as in the case of a Bankrupt.

**Proceedings in Default.**

XLVII. If after service of such Summons or due notice thereof as aforesaid, the Debtor shall not pay the debt and costs, or secure or compound for the same to the satisfaction of the Creditor, the Court may on the appearance of the Debtor, or if he shall not appear having no lawful impediment allowed by the Court, adjudge him Bankrupt without the presentation of a petition for adjudication or other proceeding; and where the Debtor has not appeared, notice of such adjudication shall be served upon him in like manner as herein provided with respect to service of the Summons.

**Appearance to be within three days, or extended time, and on appearance the Bankruptcy may be either annulled or made absolute.**

XLVIII. The Debtor shall be allowed Three Days from such notice, or such further time as the Court shall think fit, for appearing to show cause against the adjudication, and if he appear within the time allowed and show sufficient cause, the adjudication may be annulled; otherwise, at the end of the time allowed or on the Judgment of the Court against the sufficiency of the cause shown, the adjudication shall become absolute, and notice thereof shall be forthwith given in one or more of the local Newspapers, and the adjudication shall have relation back to the service of the Summons or the insertion of the first notice in the said local Newspaper, as the case may be; and the fees payable upon the presentation of a petition for adjudication of Bankruptcy shall be paid in respect of adjudication under this section or under the last preceding section, by the Official Assignee or Creditors' Assignee as the case may be, out of the first Moneys that shall be received under the Estate of the Bankrupt.

**Provision for Committal to apply to Debtors on Judgment Summons.**

XLIX. The provisions contained in this Act relating to the committal of a person refusing to be sworn, or doing or omitting the other acts or things therein mentioned, shall apply to a Debtor appearing on a Judgment Debtor Summons.

AS TO PROCEEDINGS BEFORE ADJUDICATION IN THE CASE OF NON-TRADERS.

L. Proceedings to obtain adjudication in Bankruptcy shall be by Petition on the oath of the petitioner. Every such Petition shall be filed of record, and prosecuted as directed by this Act; and from and after the filing of such Petition in the case of a Debtor petitioning against himself, and from and after adjudication in the case of a Debtor not being a Trader who shall be adjudged Bankrupt, the Bankrupt personally and all his Estate and Effects of what nature or kind soever, shall be subject to the law of Bankruptcy in like manner as if such Debtor had been a Trader, and as such duly found and declared a Bankrupt.

Proceedings in Bankruptcy against Non-Traders to be commenced by Petition.

LI. The amount of the debt of any Creditor petitioning for Bankruptcy against a Debtor, whether a Trader or not, shall be as follows; that is to say:

Petitioning Creditor's Debt.

The Debt of a single Creditor, or of two or more persons being partners, shall amount to Twenty-five Pounds or upwards.

The Debt of two Creditors shall amount to Thirty-five Pounds or upwards.

The Debt of three or more Creditors shall amount to Fifty Pounds or upwards.

Every person who has given Credit to any Debtor upon Valuable Consideration for any sum payable at a certain time, which time shall not have arrived when such Debtor committed an Act of Bankruptcy, may so petition or join in petitioning whether he shall have any security for such sum or not.

LII. If the Debt stated by the petitioning Creditor in his affidavit, or in his petition for adjudication to be due to him from any Debtor shall not be really due, or if, after a petition for adjudication of Bankruptcy has been filed it shall not have been proved that the person against whom such petition has been filed was liable to an adjudication of Bankruptcy at the time of the filing of such petition, and it shall also appear that such petition was filed fraudulently or maliciously, the Courts shall and may upon petition of any person aggrieved by such petition examine into the same, and order satisfaction to be made to him for the damages by him sustained.

Power to Annul and Compel Payment of Damages.

LIII. A petition for adjudication of Bankruptcy or Judgment Debtors Summons against any Debtor indebted in the amount aforesaid to any Copartnership duly authorized to sue and be sued in the name of a Public Officer of such Copartnership, may be filed or sued out by such public officer as the nominal petitioner for and on behalf of such Copartnership.

Corporate Officer may Sue.

LIV. Any Debtor may petition for adjudication of Bankruptcy against himself, and the filing of such Petition shall be an act of Bankruptcy without any previous Declaration of Insolvency by such Debtor.

Debtor may petition.

Debtor to file Statement of Assets and Liabilities.

LV. Every Debtor petitioning against himself shall file in Court, together with his Petition, a full, true and accurate Statement of his Debts and Liabilities of every kind, and of the names and residences of his Creditors, and of the causes of his inability to meet his engagements, and such Statement shall be in such form as General Orders shall direct, and shall be verified by the Oath of the Petitioner.

Prisoner filing Petition to give notice to gaoler

LVI. Every Debtor who shall present a Petition for adjudication whilst a prisoner in any prison or gaol, shall by writing give notice to the keeper of such gaol or prison of his intention so to do, and shall in his Petition state that such notice has been given.

In default of adjudication any Creditor may proceed.

LVII. If the petitioning Creditor shall not proceed and obtain adjudication within three days after his Petition shall have been filed, or within such extended time as shall be allowed by the Court, the Court may at any time at the expiration of such three days or of such extended time as the case may be, upon the Petition of any other Creditor to the amount required to constitute a petitioning Creditor, proceed to adjudicate on such last-mentioned Petition. If a Debtor petitioning against himself does not obtain adjudication within twenty-four hours after filing such Petition, the Court may proceed to adjudge the Debtor a Bankrupt on the Petition of any competent Creditor.

Character of Petitioning Creditor's debt.

LVIII. In the computation of debts for the purposes of any Petition under this Act, there shall be reckoned as debts :

1st. Sums due to Creditors holding Mortgages or other available securities or Liens, after deducting the value of the property comprised in such Mortgages, Securities or Liens.

2d. Such Interests and Costs as shall be due in respect of any of the debts.

But there shall not be reckoned :

1st. The amount of the debts in respect of which the Petitioner has already taken the benefit of Insolvency, Protection or Bankruptcy.

2d. Debts barred by any Statute of Limitations.

AS TO ADJUDICATION OF BANKRUPTCY AGAINST PAUPER PRISONERS.

Petitions in Forma Pauperis.

LIX. If any Debtor now being or who shall be imprisoned for any debt or demand, shall be unable to petition the Court for an adjudication of Bankruptcy against himself through poverty, he shall be at liberty to petition in forma pauperis, upon making an affidavit that he has not the means of paying the fees and expenses usually payable in respect of a Petition by a Debtor for an adjudication of Bankruptcy. Such an affidavit may be sworn before the gaoler of the prison where such Debtor is confined, and such gaoler is hereby empowered and required to take such affidavit and swear the deponent thereto without fee or reward.

LX. Every person so petitioning in forma pauperis as aforesaid shall be brought up to the Court at its next sitting after the presentation of such petition, and shall be examined by the Court touching his Estate and Effects, Debts, Dealings and Transactions : and if the Court shall be satisfied with such examination it shall make an order of adjudication of Bankruptcy against the Petitioner. and if it think fit grant an order of protection to the Petitioner.

Petition in Forma pauperis to be brought up for examination at the next Court.

AS TO PERSONS ARRESTED FOR DEBT.

LXI. Any person arrested upon a Capias ad Satisfaciendum may at any time thereafter take out a Summons in the Supreme Court either before or after a Petition filed, or in cases coming within the primary jurisdiction of the Commissioner in the Court of the Commissioner calling upon the person or persons on whose behalf such writ was issued to show cause why Bail (the particulars whereof shall be mentioned in such Summons) should not be taken for his appearance at such times as he may be called upon to appear by the Court.

Bail to ca. sa. may be given on Summons for that purpose.

LXII. The Chief Justice or the Commissioner, as the case may be, may direct that such person may be either discharged from or remitted into custody for such time and upon such terms and Bail as may be deemed just, and may postpone the hearing of such Summons from time to time.

The Chief Justice may order discharge.

LXIII. The Sheriff may personally take such Bail for the appearance before the Court of any person arrested on a Writ of Capias ad Satisfaciendum within Fourteen Days from such Bail as he may think sufficient, but the Sheriff shall in default of such appearance be liable for the debt in respect of which such Writ originally issued.

Sheriff may on his own personal responsibility take Bail.

LXIV. In all cases where Bail is taken the Debt in respect of which such Writ was issued shall be deemed and taken to be subsisting, notwithstanding such Arrest, Bail or Discharge.

Debt to be considered as subsisting.

LXV. The Gaoler of every Prison in this Colony shall on the first day of every month, or if such day shall happen to be Sunday, then on the day next following, make a return to the Chief Justice under his hand of the name of every such person in custody upon any process whatsoever for or by reason of any Debt, Claim or Demand whatsoever, and the date of his or her imprisonment and the nature and amount of the Debt or Demand for which he or she is imprisoned or in custody, and whether he or she is willing to petition the Court of Bankruptcy, or is unable to do so by reason of poverty, or in such other form and manner and with such particulars as any General Orders shall direct ; such return shall also include the names and addresses of every Creditor at whose suit such prisoner is imprisoned or detained.

Gaoler to return number of persons in Custody under Process.

Attendance of the Registrar, and Enquiries by him.

LXVI. The Chief Justice shall in every case on receiving such Return make an Order that the Registrar shall attend at the Gaol on a Day to be named being at least Seven and not more than Twenty-one Days from the date of such return. Notice of such Order shall be forthwith given to the Gaoler, and also to the Execution and Detaining Creditors of every prisoner included in such return. On the Day named in the Order the Registrar shall attend at the prison, and examine every prisoner included in such return who shall have been in prison for Fourteen Days, touching his Estate and Effects, Debts, Dealings and Transactions.

The Registrar shall also ascertain the last or longest place of abode and business of each such prisoner within the six months next prior to his Imprisonment. The Chief Justice on the report of the Registrar shall have power to make an Order of adjudication in Bankruptcy against every such prisoner, and to grant him protection, and shall also direct in what Court such adjudication shall be prosecuted.

Registrar to report in cases of recalcitrant prisoner who may be committed.

LXVII. If the prisoner shall refuse to appear or to be sworn or to answer all lawful questions of the Registrar, or of the execution or detaining Creditors, or of any other Creditor who shall be present, respecting his Debts, Liabilities, Dealings and Transactions, or to make a full discovery of his Estate and Effects and of all his Books of Account, or to produce the same, or to sign his examination when taken, the Registrar shall report the same to the Court, and the Court may by Warrant under the Hand and Seal of the Chief Justice and in the form contained in Schedule C to this Act, commit him to the common gaol, there to be kept with hard labor for any time not exceeding one month, and the Court may at the same time adjudge such prisoner Bankrupt; provided that if after such adjudication the Bankrupt shall, before the period of such Commitment has expired, submit to be examined and in all things conform to the Jurisdiction of the Court, he shall have in all respects the same benefit as if he had submitted to the Court in the first instance.

Adjudication to relate back to date of Commitment.

LXVIII. Every adjudication against any prisoner for debt so brought up as aforesaid, shall, unless the Court shall otherwise direct, have relation back to the date of his Commitment or Detention, as the case may be, and shall be as valid and effectual for all purposes as if it had been made under any other of the provisions of this Act.

No person imprisoned on a Warrant from the Small Debts Court to be included in the return.

LXIX. No person who is in custody solely under or by virtue of any warrant or order made or issued by, or by the authority of a Judge sitting in the existing or any future Small Debts Court, shall be included in the return so directed to be made by gaolers as aforesaid, or released from such imprisonment by virtue of any order to be made on the certificate of the Registrar aforesaid.

## AT TO THE RIGHTS AND DUTIES OF THE CREDITOR'S ASSIGNEE.

LXX. The Creditor's Assignee shall manage, and, except as herein provided, realize and recover to the Estate all real and personal property belonging to the Bankrupt, wherever situated, and convert the same into Money, and he shall pay all Moneys not necessarily retained for current expenses, all public Securities, and all Bills, Notes and negotiable Instruments belonging to the Estate, forthwith upon the receipt thereof into Court, to the account of the Account in Bankruptcy.

*Creditor's Assignee to realize the Estate and pay moneys into Court.*

LXXI. The Creditor's Assignee shall at the end of three months from and after his appointment, and thenceforth at the expiration of every succeeding three months, render to the Registrar a Debtor and Creditor account of all sums received and paid on account of the Bankrupt or his Estate, verified on oath as a full, true and faithful account of his receipts and payments as such Creditor's Assignee, and the vouchers for such Account and all Books of Account in his possession or power, together with his Banker's Pass Book, shall be produced by him to the Registrar, who shall examine the same, and if he shall be dissatisfied with such Account, the same or any part thereof or any matter arising thereon shall be enquired into and considered by the Chief Justice or Commissioner, as the case may be.

*Creditor's Assignee to account*

LXXII. Forthwith after the passing of each such account of the Creditor's Assignee a copy thereof or a statement showing the nature and result of the transactions and accounts of the Creditor's Assignee shall be made out by the Registrar and shall be open to inspection in the Registrar's Office by every Creditor who has proved under the Bankruptcy.

*Creditor's Assignee's Account to be open to inspection.*

LXXIII. In every case of a Lease or an Agreement for a Lease, it shall be lawful for the Assignee to elect to take the same and the benefit thereof, and to keep possession of the premises up to some quarter or half-yearly day on which Rent is made payable by the same Lease or Agreement, such day not being more than six months from the adjudication of Bankruptcy, and from and after such day to decline such Lease or Agreement for a Lease.

*Assignee may take the benefit of a Lease up to some quarter day.*

LXXIV. Any Mortgagee, with the leave of the Court first obtained, may bid at any sale of the mortgage property.

*Mortgagee may bid.*

LXXV. If it shall appear to any Meeting of the Creditors summoned by the Assignee by notice stating the object of the Meeting, and at which three-fourths in value of the Creditors shall be present or represented, that the debts of any Bankrupt can be discharged by means of money raised by way of Mortgage or Pledge of any of his property, and such Meeting shall pass a Resolution accordingly, it shall be lawful for the Assignee when thereunto authorized by order of the Court to execute such Mortgage or

*Assignee when empowered by the Court may at the decree of the Creditors Mortgage the Bankrupt's property to discharge Bankrupt's debts*



Pledge with or without powers of sale and other powers and in such manner in all respects as shall be specified in such order, and the Court may order the execution of such Mortgage or Pledge by any other necessary parties and give all necessary directions for the purpose of carrying into effect the Resolution of the Creditors.

Pay of Officers may be set aside for Creditors.

LXXVI. The Court may order such portion of the pay, half-pay, salary, emolument or pension of any Bankrupt as, on communication from the Colonial Secretary or the Chief Officer of the Department to which such Bankrupt may belong, or may have belonged, or under which such pay, half-pay, salary, emolument or pension may be enjoyed by such Bankrupt, may officially sanction to be paid to the Assignee, to be applied in payment of the debts of such Bankrupt, and such order and sanction being lodged in the office of the Treasurer, or of any other officer or person appointed to pay, or paying any such pay, half-pay, salary, emolument or pension, such portion of the said pay, half-pay, salary, emolument or pension as shall be specified in such order and sanction, shall be paid to such Assignee until the Court shall make order to the contrary.

In cases of dispute any party may apply to the Court for directions.

LXXVII. In any case of any claim, dispute or difference between the Official Assignee, the Creditor's Assignee and the Creditors, or any of such persons, or between any persons claiming under a Trust Deed, Deed of Composition, or Arrangement, relating to any Bankrupt's or Debtor's Estate, or to any money or property claimed as part of the Estate of any Bankrupt or Debtor, either party may apply to the Court having jurisdiction in the Bankruptcy, and it shall be lawful for the Court to determine the same, and to summon and examine upon oath the Official Assignee, or Creditor's Assignee, Trustee, or any other person whomsoever, as to any matters and things concerning the Bankruptcy or Trust Estate, and to direct such enquiries, and to give such directions and make such orders relative thereto as shall to the Court seem just and expedient, and to award costs personally or in any other manner against the Official or Creditor's Assignee, Trustee, or any other person, provided that in all cases in which a resolution has been come to by a majority in number and value of the Creditors assembled in a meeting, regard shall be had by the Court to such resolution, and the same shall not be varied or set aside by the Court, unless such resolution shall in the opinion of the Court be unjust or inequitable, and not fit to be binding and conclusive under this Act.

Power of Assignees to sell by Auction or private Contract.

LXXVIII. At any time after the expiration of twelve months from adjudication, or at any earlier period, with the approbation of the Court, the Assignees may sell by Auction or Tender, or with the sanction of the Court by private Contract, all or any of the Book Debts due or growing due to the Bankrupt, and the Books relating thereto, and the goodwill of his trade or business, and assign the same to the purchaser, and such purchaser shall, by

virtue of the assignment, have power to sue in his own name for the debts assigned to him as effectually and with the same privileges concerning proof of the requisites of Bankruptcy and other matters as the Assignee himself.

LXXIX. If the Creditor's Assignee shall wilfully fail to observe any of the directions herein contained, or shall be guilty of any neglect in the performance of his duty, or it shall be made to appear to the Court on the application of any two or more Creditors that it would be for the benefit of the Estate that such Creditor's Assignee should not continue to have the management and administration of the Bankrupt's Estate, it shall be lawful for the Court either to appoint an Official Assignee to act jointly with such Creditor's Assignee, or to remove such Creditor's Assignee, or to appoint an Official Assignee to administer the Estate under the Bankruptcy. Creditor's Assignee may be removed.

AS TO PROCEDURE AFTER ADJUDICATION.

LXXX. Immediately upon Adjudication it shall be the duty of the Official Assignee to take possession of the Bankrupt's Estate and to retain possession thereof until the appointment of a Creditor's Assignee; but if such Official Assignee, or if the Court upon the representation of any Creditor, shall be of opinion that the keeping possession of the Bankrupt's property is not requisite for the due protection of the Creditors, such possession shall not be continued. Official Assignee to enter into possession.

LXXXI. At the time of the Adjudication the Court shall appoint a Meeting of the Creditors, of which ten days' notice shall be given in one or more of the papers circulating in the Colony, and which meeting shall be held at such time and place as the Court shall appoint, and at such meeting the Official Assignee shall preside and receive the proof of the debts of the Creditors and shall give to the meeting the fullest information in his power of the Estate and Effects of the Bankrupt and of the debts due from his Estate. First Meeting of Creditors.

LXXXII. At this meeting a majority in value of the Creditors present shall determine whether any or what allowance for support shall be made to the Bankrupt, and up to what time. Allowance to Bankrupt.

LXXXIII. In case at such meeting, or at any other meeting of Creditors, any proposal shall be made by or on behalf of the Bankrupt which it shall appear to the major part in value of the Creditors there present ought to be accepted, or if it shall appear to the majority in value of the Creditors present at any meeting to be desirable on any ground to resolve, and such majority shall resolve, that no further proceedings be taken in Bankruptcy, the meeting shall be adjourned for fourteen days in order that notice of such Resolution may be given to every Creditor by the Official or Proposals from Bankrupt to be received.

Creditors' Assignee, which shall be done accordingly by advertisement in one or more of the newspapers circulating in the Colony, for one week ; and if at the adjourned meeting three-fourths in value of the Creditors present shall so resolve, the proceedings in Bankruptcy shall be suspended, and the Estate and Effects of the Bankrupt shall be wound up and administered in such manner as such majority shall direct.

AS TO WARRANTS OF COMMITMENT.

Form of Warrant of Commitment.

LXXXIV. In any Warrant of Commitment issued by any Court under this Act, it shall not be necessary to set forth or specify any Question or any part of the Examination of the person so committed, but it shall be sufficient to refer in the warrant to the Examination or Deposition of the person as remaining on the File of Proceedings, and to specify in the said Warrant the precise date of the Examination or Deposition so referred to, and such Warrant shall be in the form contained in Schedule B to this Act, provided, however, that in every case in which any person shall be so committed for refusing to answer, or for not fully answering any Question put to him, every such Question shall be specified in the Examination or Deposition of the person committed remaining on the File of Proceedings and so referred to as aforesaid ; and provided also that a copy of the said Examination or Deposition so referred to shall be delivered personally to the person committed within twenty-four hours next after his actual committal to prison, and in default of the said copy being delivered the person committed shall be discharged from custody either by the Court or by the Judge before whom such person may be brought by Habeas Corpus, with such costs, if any, as the said Court or Judge may deem fit.

No discharge for mere want of form.

LXXXV. If any person so committed shall sue forth any Writ of Habeas Corpus in order to be discharged from such commitment, he shall not be discharged by reason of any mere matter of form ; but if the Court or Judge before whom he shall be brought upon inspection and consideration of the whole of the Examination or Deposition of such person shall be of opinion that the Answer or Answers of such person is or are satisfactory, the Court or Judge may order the person so committed to be discharged.

AS TO THE CHOICE OF A CREDITOR'S ASSIGNEE.

Creditors to choose Assignee.

LXXXVI. At the first meeting of Creditors or any adjournment thereof, it shall be competent to the majority in value of the Creditors who have proved Debts to choose one or more Creditor or Creditors who has or have proved, to be the Assignee or Assignees of the Bankrupt's Estate and Effects and to be called the Creditors' Assignee, provided that the Court shall have power to reject any person so chosen who shall appear to such Court unfit to be such Assignee, and upon such rejection a new choice of Assignees shall be made.

LXXXVII. Upon the appointment of the Creditors' Assignee the powers and duties of the Official Assignee shall cease and determine, and all the Estate, both real and personal, of the Bankrupt shall be divested out of the Official Assignee and vested in the Creditors' Assignee. On appointment, duties of the Official Assignee to cease.

LXXXVIII. The Official Assignee shall forthwith render to the Creditors' Assignee a full and particular account or balance-sheet of the Bankrupt, and of all receipts, payments, and other transactions of such Official Assignee and also a list of all the Creditors of the Bankrupt who have proved their debts against the Estate. Official to account to Creditor's Assignee.

LXXXIX. The Creditors' Assignee shall audit such account and may call for such information from the Official Assignee as he possesses concerning the Estate. The account shall be audited in the presence of the Chief Justice or Commissioner as the case may be. A copy of such account of the Official Assignee when audited shall, unless the Chief Justice or Commissioner, as the case may be, shall otherwise direct, be sent by post by the Creditors' Assignee to every Creditor who has proved. Audit of Official Assignee's Account.

XC. The Court shall give such directions as it may deem expedient with respect to the custody and inspection of the books, papers, writings and documents relating to the Estate, and may authorize the Official Assignee to have the custody thereof or any part thereof. Orders as to the custody of Books, etc.

XCI. No person shall be entitled as against the Official or Creditors' Assignee to withhold possession of the Books of Account of the Bankrupt, or to claim any lien thereon. No lien against Assignees

XCII. The Creditor shall at the meeting for choice of a Creditors' Assignee, determine what (if any) security shall be given by such Assignee. At the same meeting, or at any other meeting called for the purpose, the Creditors may also determine whether a Manager shall be appointed to collect and wind up the Estate under the inspection of the Creditors' Assignee or of a Committee of Creditors, and may appoint such person with such remuneration out of the Estate, and generally upon such terms for such period and with such directions as the majority shall think fit. Creditors may determine the security to be given by Assignee, and whether a Manager shall be appointed, and how.

XCIII. When the election of an Assignee shall have been accepted by the person elected and confirmed by the Court, the Court shall, by certificate under the hand of the Judge or Commissioner and the Seal of the Court, to be called the Certificate of Appointment, declare such Creditors' Assignee to have been duly elected and appoint him to the said office accordingly. Such appointment shall be final and shall not be subject to review or appeal except as hereinafter provided, and a copy thereof, purporting to be under the Seal of the Court, shall be received as evidence of such appointment in all Courts and places without further proof. Certificate of appointment of Creditors' Assignee.

Removal and resignation of Creditors' Assignee and appointment of new one.

XCV. A majority in number and value of the Creditors may, at any meeting duly called for the purpose, remove the Creditors' Assignee or accept of his resignation, and one-fourth in value of the Creditors who have proved may at any time apply to the Court by Petition for removal of the Creditors' Assignee, and if on the hearing of such Petition the Court shall be of opinion that sufficient reason has been shown, it may remove such Creditors' Assignee and appoint a meeting of the Creditors to be held for electing a new Creditors' Assignee; and if the Assignee shall die, resign, or be removed, or remain abroad for three months at any one time, any Creditor may apply to the Court to appoint a meeting for electing a new Creditors' Assignee, and the Court may accordingly appoint a meeting whereof at least seven days previous notice shall be given in one of the papers circulating in the Colony, and at such meeting may elect a new Creditors' Assignee accordingly.

The election of new Creditors' Assignee to be conducted in the same manner as the election of the first Assignee.

XCV. In all cases of the election of a new Creditors' Assignee the proceedings shall take place in the like manner as is hereinbefore provided in the case of the first election, and the new Creditors' Assignee shall be invested with the powers and perform the duties and be subject to the rules hereinbefore provided as to the Creditors' Assignee first chosen, and shall call to account such Creditors' Assignee, his heirs, executors, administrators, or assigns, as the case may require.

Order as to disposal of Books, etc.

XCVI. When the affairs of the Bankrupt are fully wound up, the Court may, subject to the direction of any General Order, make from time to time such orders as in each case seem fit respecting the disposal or custody of any books, papers, or documents relating to property or affairs in the possession or under the control of the Official or the Creditors' Assignee or any other person.

AS TO THE LAST EXAMINATION.

Court to appoint Sitting for Last Examination and Discharge.

XCVII. The Court shall, forthwith after the choice of an Assignee by the Creditors, appoint a public sitting on a day not later than sixty days from the date of such choice, and shall give notice of such sitting in such newspapers as the Court shall direct, for the Bankrupt to pass his last examination, and also, unless the Court shall in any case otherwise direct, to make application for his discharge; but the Court shall have power to enlarge the time appointed for such sitting or to adjourn the same.

The Bankrupt to prepare and file a Statement of Accounts.

XCVIII. The Bankrupt shall prepare such Statement of his Accounts and in such form as general orders or as the Court in any case shall direct, and shall subscribe such Statement and file the same in Court ten days at least before the day appointed for the last examination or adjournment thereof, and such Statement may before such last examination be amended from time to time as occasion shall require and the Court shall direct; and the Bankrupt shall make oath of the truth of such Statement whenever:

he shall be duly required by the Court to do so ; and the last examination of the Bankrupt shall in no case be passed unless his Statement shall have been duly filed as aforesaid.

**XCIX.** The Statement of Accounts when filed in Court shall be open to the inspection of all Creditors, who may take copies of and extracts from the same, subject to such regulations as general orders shall direct. **Statement of Accounts to be open to Creditors.**

**C.** In addition to such Statement of his Accounts, the Official and Creditors' Assignees shall prepare and file in Court together with such Statement a report upon the state of affairs of the Bankrupt, setting forth such facts and particulars as may be required by the Court, or such as they may deem important for the Court to be informed of. **Assistance in the Preparation of the Statement.**

**CI.** Every Creditor of the Bankrupt may after the Adjudication prove his debt by delivering or sending before the appointment of the Creditors' Assignee, to the Official Assignee, and after such appointment, to the Creditors' Assignee, a Statement of such debt, and of the account, if any, between the Creditor and the Bankrupt, together with a Declaration signed by the Creditor appended thereto, that such Statement is a full, true, and complete Statement of Account between the Creditor and the Bankrupt, and that the Debt thereby appearing to be due from the Estate of the Bankrupt to the Creditor is justly due, and all bodies Politic and Public Companies incorporated or authorised to sue or bring actions may prove by an Agent, provided such Agent shall in his declaration declare that he is such Agent and that he is authorised to make such proof, and such declaration signed by such Creditor and Agent respectively as aforesaid, shall be in such form as general orders shall direct. **As to Proof of Debts.**

**CII.** Any person who shall wilfully and corruptly make any declaration for proof of debt as aforesaid, knowing the same or the Statement of Accounts to which the same shall be appended to be untrue in any particular, shall be deemed guilty of a Misdemeanor, and shall be liable to undergo the pains and penalties imposed upon persons guilty of wilful and corrupt perjury. **False Declaration a Misdemeanor.**

**CIII.** Every Creditor of the Bankrupt may also after Adjudication prove his debt by deposition in Court or in Chambers, or before the Registrar at any meeting of Creditors elsewhere than in Court, or by affidavit upon his own oath or upon that of any clerk or other person in his employment ; provided that where such deposition or affidavit shall be made by any other person than the Creditor, the deponent shall in his deposition or affidavit set forth that he is duly authorised by his principal to make the deposition or affidavit, and that it is within his own certain knowledge that the debt was incurred and for the consideration stated, and that to the best of his knowledge and belief the debt still remains unpaid and unsatisfied. **Proof in Court or in Chambers.**

**Statement to be examined by Registrar and Assignee.**

CIV. The Official or Creditors' Assignee, as the case may be, shall examine all the Statements of Accounts aforesaid and compare the same with the Books, Accounts, and other documents of the Bankrupt, and shall from time to time make out a list of the Creditors who have proved their debts, stating the amount and nature of such debts, which list shall be open to the inspection of any Creditor who has proved under the Estate.

**Examination of Alleged Creditors.**

CV. The Court may, on the application of the Assignee, or of any Creditor, or of the Bankrupt, or without any application, examine upon oath or otherwise, any person tendering or who has made a proof, and may summon any person capable of giving evidence concerning such proof, and in like manner where the debt is tendered on affidavit or statement as hereinbefore provided, may summon and examine on oath or otherwise, the person who has made the affidavit or statement, and any other person capable of giving evidence concerning the debt sought to be proved.

**Proof for Costs, etc., enforceable by process of Contempt.**

CVI. A person entitled to enforce against the Bankrupt payment of any money costs, or expenses by process of contempt issuing out of any Court, shall be entitled to come in as a Creditor under the Bankruptcy, and prove for the amount payable under the process, subject to such ascertaining of the amount as may be properly had by taxation or otherwise.

**Proportionate Payments.**

CVII. In all cases in which the Bankrupt is liable to pay any Rent or other payment, falling due at fixed or stated periods, and the Adjudication of Bankruptcy shall happen at any time other than one of such fixed or stated periods, it shall be lawful for the person entitled to such Rent or other payment to prove for a proportionate part thereof up to the day of the Adjudication of Bankruptcy, in such manner as if the said Rent or Payment grew due from day to day, and not at such fixed or stated periods as aforesaid.

**Proof for Instalment.**

CVIII. If any Bankrupt shall have contracted before the filing of a Petition for Adjudication, any debt payable by way of Instalments, the Creditor may prove for the amount of such Instalments remaining due at the time of such Petition.

**Proof in respect of Unliquidated Damages.**

CIX. If any Bankrupt shall at the time of Adjudication be liable, by reason of any Contract or Promise, to a demand in the nature of Damages which have not and cannot be otherwise liquidated or ascertained, it shall be lawful for the Court, acting in prosecution of such Bankruptcy, to direct such damages to be assessed by a Jury, either before itself or in a Court of Law, and to give all necessary directions for such purpose; and the amount of damage when assessed, shall be provable as if a debt due at the time of the Bankruptcy. Provided that in case all necessary parties agree the Court shall have power to assess such damage without the intervention of a Jury or a reference to a Court of Law.

CX. The Court may at any time expunge or reduce a Proof of Debt on such application and such evidence as it shall think sufficient, and for that purpose may summon and examine upon oath or otherwise, the person who has proved and every person capable of giving evidence concerning the alleged Debt, and may make such order as to the Costs of any application as shall seem just.

How Proof may be Expunged or Reduced.

AS TO THE DISCHARGE OF THE BANKRUPT.

CXI. All Classification of Certificates shall be abolished; and in every case where the Discharge of a Bankrupt shall be suspended such Discharge, when allowed, shall simply state the Period for which it was suspended and the Reasons for such suspension, and if the Bankrupt shall have been sentenced to Imprisonment by any Court under the provisions of this Act, the Discharge shall also set forth the fact of such sentence and the Period of such Imprisonment.

Classification of Certificates Abolished.

CXII. After the Bankrupt has passed his last examination, the Court shall proceed to consider the question of granting to him an Order of Discharge, and shall appoint a sitting for that purpose. Seven days' notice of such sitting shall be given in such newspapers as the Court shall direct. Fourteen days at least shall intervene between the day of passing the last Examination and the day of such sitting. The Assignees, or any Creditor who has proved, may be heard against such Discharge.

Order of Discharge.

CXIII. In granting Orders of Discharge, the following Rules shall be observed:

Rules as to Granting Orders of Discharge.

1. Every application for an Order of Discharge which is opposed shall be heard and decided by the Chief Justice or Commissioner, as the case may be.

2. Although the application for Discharge be not opposed, it shall be the duty of the Commissioner in cases brought before him to consider whether, having regard to the Bankrupt's conduct relative to his trade, business, property, or affairs, the manner in which his Debts have been contracted, and the proceedings in the Bankruptcy, there be any well founded objection to an immediate Order of Discharge.

3. If on the Hearing of any application for an Order of Discharge, the Assignee or any Creditor shall allege, and with or without such allegation the Court shall be of opinion that there is ground for charging the Bankrupt with acts or conduct amounting to a Misdemeanor under this Act, the Court shall appoint a day for trying the Bankrupt on such charge, and if the Bankrupt require it, shall summon a Jury for such purpose, and the Attorney-General shall either conduct the prosecution himself or appoint some other so to do.

4. If on such Trial by a Jury, or by the Court alone, the Bankrupt shall be convicted of any offence by this Act made a Misdemeanor, the Court shall, in addition to the punishment awarded



for the offence, have power to direct that the Order of Discharge be either wholly refused or suspended during such time as it shall think fit.

5. If the Bankrupt shall not be accused of acts amounting to Misdemeanor, or if he shall have been accused and acquitted, but in either case there shall be made, or appear to the Court to exist, objection to the granting of an immediate Discharge, the Court shall proceed to consider the conduct of the Bankrupt before and after Adjudication, and the manner and circumstances in and under which his Debts have been contracted, and if the Court shall be of opinion that the Bankrupt has carried on trade by means of fictitious Capital, or that he could not have had at the time when any of his debts were contracted, any reasonable or probable ground of expectation of being able to pay the same, or that if a Trader, he has with intent to conceal the true state of his affairs, wilfully omitted to keep proper Books of Account, or whether Trader or not, that his Insolvency is attributable to rash and hazardous speculation, or unjustifiable extravagance in living, or that he has put any of Creditors to unnecessary expense by frivolous or vexatious defence to any action or suit to recover any debt or money due from him, the Court may either refuse an Order of Discharge, or may suspend the same from taking effect for such time as the Court may think fit.

**Criminal Prosecutions  
by Order of the Court.**

**CXIV.** In every case of accusation against a Bankrupt of acts amounting to a Misdemeanor, it shall be competent to the Court to direct that the Bankrupt be indicted and prosecuted at the next Assizes.

**When Order to take  
Effect.**

**CXV.** In all other cases the Order of Discharge shall take effect immediately from its date, subject to the appeal hereinafter provided.

**Effect of Discharge.**

**CXVI.** The Order of Discharge shall, upon taking effect, discharge the Bankrupt from all debts, claims, or demands proveable under his Bankruptcy; and if thereafter he shall be arrested, or any action shall be brought against him for any such debt, claim, or demand, he shall be discharged upon entering an Appearance, and may plead in general that the cause of action accrued before he became a Bankrupt, and may give this Act and the special matter in evidence; and the Order of Discharge shall be sufficient evidence of the Bankruptcy, and the proceedings precedent to the Order of Discharge.

**Release of Bankrupt  
when Arrested after  
Discharge.**

**CXVII.** If a Bankrupt after the Order of Discharge takes effect, be arrested or detained in custody for a debt, claim, or demand, proveable under his Bankruptcy where Judgment has been obtained before the Order of Discharge takes effect, the Chief Justice shall, on proof of the Order of Discharge, and unless there appear good reason to the contrary, direct the officer who has the Bankrupt in custody to discharge him, which shall be done accordingly, without fee.

CXVIII. The Order of Discharge shall not release or discharge any person who was a Partner with the Bankrupt at the time of the Bankruptcy, or was then jointly bound, or had made any Joint Contract with him. As to Partners.

CXIX. After the Order of Discharge takes effect, the Bankrupt shall not be liable to pay or satisfy any debt, claim or demand provcable under the Bankruptcy, or any part thereof, on any Contract, Promise, or Agreement, verbal or written, made after Adjudication; and if he be sued upon any such Contract, Promise, or Agreement, he may plead in general that the cause of action accrued pending proceedings in Bankruptcy. and may give this Act and the special matter in evidence. Contract after Filing of Petition not Binding on Bankrupt.

CXX. The Order of Discharge shall discharge the Bankrupt from the effects of any process issuing out of any Court for Contempt of any Court for non-payment of money or of costs or expenses in any Court, and from all costs which he would be liable to pay in consequence of or on purging his Contempt; and a Bankrupt in custody under any such process as aforesaid shall, on obtaining an Order of Discharge, be entitled to be discharged from such custody forthwith. Discharge from Contempt.

CXXI. Any Contract, Covenant or Security made or given by a Bankrupt or other person, with, to, or in trust for any Creditor, for securing the payment of any money as a consideration, or with intent to persuade the Creditor to forbear opposing the Order for Discharge, or to forbear to petition for a Rehearing of, or to appeal against the same, shall be void, and any money thereby secured or agreed to be paid, shall not be recoverable and the party sued on any such contract or security may plead in general that the cause of action accrued pending proceedings in Bankruptcy, and may give this Act and the special matter in evidence. Consideration given to induce Creditor to forbear Opposition.

CXXII. If any Creditor of a Bankrupt shall obtain any sum of money or any Goods, Chattels or Security for money, from any person, as an inducement for forbearing to oppose, or for consenting to the allowance of the discharge of such Bankrupt, or to forbear to petition for the recall of the same, every such Creditor so offending shall forfeit and lose to the Crown for every such offence the treble value or amount of such Money, Goods, Chattels or Security so obtained, to be recovered before the Court in such manner as General Orders shall direct. Obtaining Money, Goods, etc., as an inducement to forbear Opposition or to consent to Allowance or Discharge.

CXXIII. The Order of Discharge, whether suspended or not, shall not be reviewed by the Court, unless the Court see good cause to believe that the Order was obtained on false evidence, or by reason of the suppression of evidence, or otherwise fraudulently; in any of which cases the Court may, if it think fit, upon the application of the Bankrupt or of a Creditor who has proved, and subject to such deposit for costs, and to such notices, by adver- Rehearing.

tisement or otherwise, as the Court shall think fit, grant a Re-hearing of the matter and re-hear it accordingly; and upon Re-hearing the Court shall make such order as shall seem just in like manner as it might upon an original hearing.

If Suspended on Re-hearing subsequent Creditors to prove first against subsequent Property.

CXXIV. If on such Re-hearing the Court shall annul or suspend the Order of Discharge, all persons having bona fide become Creditors of the Bankrupt between the time of the Order originally taking effect and the time of its being annulled or suspended on Re-hearing shall, as against any property acquired by the Bankrupt during the same period, and in priority to the original Creditors, be admitted to prove and have dividends under the Bankruptcy.

Order when to be Drawn up.

CXXV. The Order of Discharge shall not be drawn up until after the expiration of the time allowed for appeal or if an appeal be brought, until after the decision of the Court of Appeal upon such appeal, and shall bear date either the day after the expiration of the time allowed for appeal, or the day of the Decision of the Court of Appeal, as the case may require.

Appeal against Order of Discharge.

CXXVI. At any time within thirty days after any Order of Discharge shall have been allowed, and subject to such order as to deposit of Costs as General Orders shall direct, any Creditor of the Bankrupt, or any Creditors' Assignee, may, if the Order of Discharge has been made by the Commissioner, apply to the Chief Justice that such Order of Discharge may be recalled and delivered up to be cancelled; and the Chief Justice may, on good cause shown, order such Order of Discharge to be recalled and cancelled.

Form of Order.

CXXVII. The Order of Discharge shall be in such form as General Orders shall direct, and shall be under the hand of the Commissioner or Chief Justice, and the Seal of the Court, and notice of the granting thereof shall be advertised in one or more of the local papers.

#### AS TO AUDIT.

No Public Sitting for Audit.

CXXVIII. No public sittings of the Courts shall be held for the sole purpose of auditing the Accounts of the Assignees, but such Accounts shall be audited in such manner as is herein provided, or as General Orders shall direct.

#### AS TO DIVIDEND.

Dividend.

CXXIX. At the expiration of four months from the date of the Adjudication of Bankruptcy, or as much earlier as the Court shall appoint, the Creditors' Assignee shall submit to a Meeting of Creditors to be called for that purpose, and to be held before the Registrar, of which Meeting ten days notice shall be given in the

local newspapers, a statement of the whole Estate of the Bankrupt as then ascertained, of the Property recovered and of the Property outstanding, specifying the cause of its being so outstanding, and of all the receipts and all payments thereout, made or to be made; and the Creditors' Assignee shall and any Creditor who has proved may attend and examine such statement, and compare the receipts with the payments; and upon ascertaining what balance is then in the Court to the credit of the Estate the Meeting shall by resolution declare whether any and what part of the net produce of the Estate, after making a reasonable deduction for future contingencies, shall be divided amongst the Creditors. At the same Meeting the Creditors shall determine whether any and what allowance shall be made to the Bankrupt out of his Estate, if he has obtained or shall obtain a discharge.

CXXX. If upon such Examination it shall appear that the Creditors' Assignee has kept in his hands at any time during the space of one week more than the sum of Fifty Pounds belonging to the Estate, the Creditors may, upon establishing such fact to the satisfaction of the Court, and if the Assignee shall not show cause to the contrary, debit such Assignee with Interest for the amount so kept at any rate not exceeding Twenty Pounds per centum by the year, for the time such Moneys were kept in his hands.

Assignee not to keep Money in his hands.

CXXXI. In the calculation of a Dividend it shall be imperative to make provision for Debts which shall appear from the Bankrupt's balance-sheet to be due to persons resident in places so distant from the Court that in the ordinary course of communication they have not had sufficient time to tender their Proofs or to establish them if disputed, and also for Debts, the subject of claims not yet determined by the Court.

Where Creditors Reside at a Distance.

CXXXII. In every case where joint and separate Estates have to be administered, and where the Court shall not otherwise direct, Dividends of the joint and separate Estates shall be declared at one and the same meeting, and notice of the time appointed for such Dividends, when advertised, shall be given in one and the same advertisement, and the costs, charges and expenses of and incident to the meeting shall be apportioned by the Assignee between the joint and separate Estates as may appear to be fair and reasonable, having regard to the work done for and the benefit received by each Estate; and a single Fee and no more shall be payable to the Solicitor to the Estate in respect of the meeting.

Joint and Separate Dividend Meetings.

CXXXIII. Within ten days after such meeting, or within such further time as the Court may allow, the Creditors' Assignee shall prepare lists of Creditors entitled to Dividend, and shall calculate and set opposite to the name of each Creditor who has proved under the Estate, (subject to the provision herein contained as to Dividends reserved,) the Dividend to which he is entitled, out of the net produce of the Estate so set apart for a Dividend, and shall

Dividend List to be prepared by Creditors' Assignee.

forward by post to every such Creditor a statement of the Dividend to which he is so entitled, and such Dividends shall be paid at the Registrar's office, or otherwise in such manner as General Orders shall direct.

Like Proceedings at successive periods of Four Months.

CXXXIV. The like proceedings for the making up and auditing of the Accounts of the Estate, and the Declaration and Payment of a Dividend which are herein directed to be had at the expiration of Four Months from the adjudication of Bankruptcy, shall be had at the successive expirations of every period of Four Months, or earlier, as the case may be, until the whole of the Estate is divided amongst the Creditors, and a Dividend is declared to be final; provided that it shall be lawful for any such meeting of Creditors as aforesaid to postpone the period of declaring a Dividend, or at any time in declaring a second Dividend, to declare also that such second Dividend shall be final, unless any action at law or suit in equity be depending, or any part of the Estate be standing out not sold or disposed of, or unless some other Estate or Effects of the Bankrupt shall afterwards come to the Assignee, in which case he shall, as soon as may be, convert such Estate and Effects into Money, and within Two Months after the same shall be so converted, the same shall also be divided in manner aforesaid.

#### AS TO THE DISCHARGE OF THE CREDITORS ASSIGNEE.

Creditors to pass a Resolution on the Conduct of the Creditors' Assignee, after which the Creditors' Assignee may apply to the Court for a Discharge.

CXXXV. After a final Dividend shall have been declared and paid, the Creditors Assignee shall call a Meeting of the Creditors to consider his application for a Discharge, and at such Meeting he shall lay before the Creditors his books and papers of accounts and all the documents relating to the Bankrupt's Estate and useful to be laid before the Creditors for the purpose of enabling them to consider the conduct and management thereof, and the Creditors shall then come to a Resolution expressing their opinion of the conduct of the Creditors Assignee; and the Creditors Assignee may thereafter apply to the Court for an Order of Discharge, and the Court shall thereupon take into consideration the accounts of the Creditors Assignee, and the said Resolution of the Creditors expressing their opinion of his conduct, and may hear the Creditors Assignee and any of the Creditors for or against such order, and may direct such inquiries and call for such evidence as the Court may think fit; and the Court shall thereupon make such Order of Discharge, with or without conditions, or refuse the same, or generally make such order as to the Court shall seem fit and the justice of the case shall require.

Effect of Discharge.

CXXXVI. The Order of Discharge shall operate to release the Creditors Assignee from all claims and demands of the Creditors, or of any person who might have proved under the Bankruptcy, subject nevertheless to such conditions, if any, as shall be expressed in such Order of Discharge.

CXXXVII. Every Creditors' Assignee shall before his discharge transmit to the Official Assignee a List of Unclaimed Dividends on the Estate, and of all debts remaining due to the Estate, under his hand, and shall pay all moneys and other Estate of the Bankrupt then in his hands into the Court to the credit of the Estate.

Unclaimed Dividends to be Paid into the Court.

CXXXVIII. When the Creditors' Assignee has obtained an Order of Discharge in manner herein provided, the Official Assignee appointed in the matter in Bankruptcy shall as to any Estate and Effects of the Bankrupt not realized at the time of such Order of Discharge, and as to all debts remaining uncollected and which shall not have been sold, in manner herein provided represent the Estate in all respects as the Sole Assignee thereof, and shall have and exercise all the rights, duties, powers, and authorities, conferred by this Act upon Official and Creditors' Assignees.

Official Assignee to act after discharge of Creditors' Assignee.

CXXXIX. All Unclaimed Dividends and all moneys unclaimed, the produce of any Bankrupt Estate shall, after the expiration of the period of twelve months from the Dividend having been declared, or from the time at which any other moneys unclaimed shall have come to the hands of the Assignee, be paid unto the Treasurer, and shall be placed by him to the credit of the Accountant in Bankruptcy in an account to be intituled the "Unclaimed Dividend Account," which shall be subject to the Order of the Court for the payment thereof, of any Dividend due to any Creditor or for the distribution of any such other unclaimed money.

Unclaimed Dividends.

#### AS TO CHANGE FROM BANKRUPTCY TO ARRANGEMENT.

CXL. At the first Meeting of Creditors held after Adjudication in manner herein provided, or at any meeting to be called for the purpose, and of which ten days notice shall have been given in one of the local papers, three-fourths in value of the Creditors present or represented at such meeting may resolve that the Estate ought to be wound up under a Deed of Arrangement, Composition, or otherwise, and that an application shall be made to the Court to stay proceedings in the Bankruptcy for a period not exceeding two months.

Majority of Creditors may Resolve that Estate may be wound up Out of Court.

CXLI. The Official Assignee shall report such Resolution to the Court within four days from the date of such Resolution, and the Bankrupt or any Creditor nominated in that behalf by the meeting, may then apply to the Court that the Proceedings in Bankruptcy may be stayed in the Terms of such Resolution, and the Court, after hearing the Bankrupt and such Creditors as may desire to be heard for or against the Resolution, and if it shall find that the Resolution was duly carried and that its terms are reasonable, and calculated to benefit the general body of the Creditors under the Estate, shall confirm the same, and make order accordingly, and in such order shall give such directions as to the interim management of the Estate as it shall deem expedient.

Resolution to be Reported to the Court.

Deed of Arrangement  
to be produced to the  
Court.

CXLII. If the proceedings in Bankruptcy be stayed as herein provided, the Bankrupt, or any Creditor nominated in that behalf by the meeting aforesaid, may at any time within the period during which the proceedings are so stayed, produce to the Court a Deed of Arrangement, signed by or on behalf of three-fourths in value of all the Creditors of the Bankrupt; and the Court may consider the same, and may examine on oath the Bankrupt and any of the Creditors who may desire to be heard in support of or opposition to the Deed, and may make such other inquiry as it may think necessary; and if the Court shall be satisfied that the Deed has been duly entered into and executed, and that its terms are reasonable and calculated to benefit the general body of the Creditors under the Estate, it shall by order make a Declaration for the complete Execution of the Deed, and shall direct the same to be registered with the Registrar, and shall also, if the Court think fit, annul the Bankruptcy; and such Deed shall be thereafter as binding in all respects on any Creditor who has not executed the Deed as if he had executed it, provided such Deed be registered with the Registrar in manner directed by the order.

Court to have Jurisdiction to entertain Applications.

CXLIII. Either before or after such Order, the Court shall have jurisdiction to entertain any application of the Bankrupt or of any party to the Deed, or of any Creditor or person claiming to be a Creditor, respecting the Disclosure, Distribution, Inspection, Conduct, Management, or winding up of the Bankrupt's Estate and affairs, or any act or thing relating thereto, or respecting the execution of any of the Trusts or Provisions of the Deed or the Audit or Examination of the Accounts of a Trustee or Inspector, or the Taxation or Examination of the Costs or Charges of any Attorney, Solicitor, Accountant, Auctioneer, Broker, or other person acting or employed under the Deed, or generally for the decision of any dispute or question, and shall also have jurisdiction to entertain any application of any such person as aforesaid, respecting any matter for the submission whereof to the Court provision is made by the Deed, or any matter arising between any of the said persons and any other person appearing and submitting to the jurisdiction of the Court; and the Court shall determine all questions arising under the Deed according to the Law and Practice in Bankruptcy, so far as they may be applicable, and on entertaining any such application shall have power to make all such Orders as shall seem just, and to enforce all such Orders as in Bankruptcy.

Questions to be decided according to Law of Bankruptcy.

Power of the Court to Summon and Examine.

CXLIV. The Court shall have power for the purpose of any application under these provisions, or for the better execution of any powers given to the Court thereby, to summon and to examine upon oath or otherwise, the Bankrupt and any party to the Deed, and any Creditor or person claiming to be a Creditor, and any person known or suspected to have any of the Estate in his possession, or any person supposed to be indebted to the Estate, or whom the Court may deem capable of giving any information material to the full disclosure of the Debtor's transactions and

affairs, or to the carrying into effect the provisions of the Deed ; and the Court may exercise, as to the examination of such persons and the production by them of such Books, Papers, Deeds or Documents as it shall deem requisite, the same powers that are vested in the Court, with relation to the examination of persons and witnesses, and the production of Books, Papers, Deeds and Documents in matters of Bankruptcy.

CXLV. If the Resolution aforesaid shall not be duly reported, or if the Court shall refuse the application to stay proceedings, or if the Deed of Arrangement shall not be duly produced, or if upon its production the Court shall not think fit to approve thereof, the Bankruptcy shall proceed as though no such Resolution had been passed, and the Court may make all necessary Orders for resuming the Proceedings in Bankruptcy, and the period of time which shall have elapsed between the date of such Resolution and the date of the Order for resuming Proceedings shall not be reckoned in calculating periods of time prescribed by this Act.

Where Bankruptcy to be continued or to be Resumed.

CXLVI. If the Bankruptcy be annulled as herein provided, the Order annulling the same shall be filed with the Proceedings, and notice thereof shall be given in one of the local papers.

Where Bankruptcy Annulled.

AS TO TRUST DEEDS FOR BENEFIT OF CREDITORS, COMPOSITION, AND INSPECTORSHIP DEEDS, EXECUTED BY A DEBTOR.

CXLVII. Every Deed or Instrument made or entered into between a Debtor and his Creditors, or any of them, or a Trustee on their behalf, relating to the debts or liabilities of the Debtor and his release therefrom, and the distribution, inspection, management and winding up of his Estate, or any of such matters, shall be as valid and effectual and binding on all the Creditors of such Debtor as if they were parties to and had duly executed the same, provided the following conditions be observed, that is to say :

Trust Deeds, when Valid.

1. Three-fourths in value of the Creditors of such Debtor whose debts shall respectively amount to Ten Pounds and upwards shall, before or after the execution thereof by the Debtor, in writing assent to or approve of such Deed or Instrument.

2. If a Trustee or Trustees be appointed by such Deed or Instrument, such Trustee or Trustees shall execute the same.

3. The execution of such Deed or Instrument by the Debtor shall be attested by an Attorney or Solicitor.

4. Immediately on the execution thereof by the Debtor, possession of all the property comprised therein, of which the Debtor can give or order possession, shall be given to the Trustees.

5. Within twenty-eight days from the day of the execution of such Deed or Instrument by the Debtor, the same shall be produced and left at the office of the Registrar for the purpose of being registered.

6. Together with such Deed or Instrument there shall be delivered to the Registrar an affidavit by the Debtor or some person



able to depose thereto, or a certificate by the Trustee or Trustees, that three-fourths in value of the Creditors of the Debtor, whose debts respectively amount to Ten Pounds or upwards, have in writing assented to or approved of such Deed or Instrument, and also stating the amount in value of the property and credits of the Debtor comprised in such Deed.

On fulfillment of the conditions aforesaid, such Deed or Instrument shall be valid and effectual.

Particulars of Deed to be Entered by the Registrar.

CXLVIII. The date, names and description of the parties to every such Deed or Instrument, together with a short statement of the nature and effect thereof, shall be entered by the Registrar in a Book to be kept exclusively for the purposes of such Registration. Such entry shall be made within forty-eight hours after the Deed shall have been left with the Registrar as aforesaid, and a copy of such entry shall be published in one of the local newspapers within four days after the making of such entry.

Deed to be Registered.

CXLIX. Every Deed, Instrument or Agreement whatsoever, by which a Debtor not being a Bankrupt, conveys or covenants, or agrees to convey his Estate and Effects, or the principal part thereof, for the benefit of his Creditors, or makes any arrangement or agreement with his Creditors or any person on their behalf, for the distribution, inspection, conduct, management, or winding up of his Affairs or Estate, and the release or discharge of such Debtor from his Debts or Liabilities, shall within twenty-eight days from and after the execution thereof by such Debtor, or within such further time as the Court shall allow, be registered in the Court of Bankruptcy, and in default thereof shall not be received in evidence.

Memorandum of Particulars.

CL. Every such Deed, on being so registered as aforesaid, shall have a Memorandum thereof written on the face of such Deed, stating the day and the hour of the day at which the same was brought into the office of the Registrar for Registration.

Jurisdiction of the Court.

CLII. From and after the Registration of every such Deed or Instrument in manner aforesaid, the Debtor and Creditors and Trustees, parties to such Deed, or who have assented thereto or are bound thereby, shall in all matters relating to the Estate and Effects of such Debtor, be subject to the Jurisdiction of the Court of Bankruptcy, and shall respectively have the benefit of and be liable to all the provisions of this Act, in the same or like manner as if the Debtor had been adjudged a Bankrupt and the Creditors had proved and the Trustees had been appointed Creditors' Assignees under such Bankruptcy; and the existing or future Trustees of any such Deed or Instrument, and the Creditors under the same, shall as between themselves respectively, and as between themselves and the Debtor, and against third persons, have the same powers, rights and remedies with respect to the Debtor and his Estate and Effects, and the collection and recovery of the same,

as are possessed or may be used or exercised by Assignees or Creditors with respect to the Bankrupt or his Acts, Estate and Effects in Bankruptcy; and except where the Deed shall expressly provide otherwise, the Court shall determine all questions arising under the Deed according to the Law and Practice in Bankruptcy, so far as they may be applicable, and shall have power to make and enforce all such Orders as it would be authorized to do if the Debtor in such Deed had been adjudged Bankrupt and his Estate were administered in Bankruptcy.

CLII. After notice of the Filing and Registration of such Deed has been given as aforesaid, no Execution, Sequestration or other Process against the Debtor's property in respect of any Debt, and no Process against his person in respect of any Debt other than such Process by Writ or Warrant as may be had against a Debtor about to depart out of the Colony, shall be available to any Creditor or Claimant without leave of the Court, and a Certificate of the Filing and Registration of such Deed under the hand of the Registrar and the seal of the Court shall be available to the Debtor for all purposes as a protection in Bankruptcy.

Protection to Debtor.

CLIII. In case any Petition shall be presented for an adjudication in Bankruptcy against a Debtor after his execution of such Deed or Instrument as is hereinbefore described, and pending the time allowed for the Registration of such Deed or Instrument, all proceedings under such Petition may be stayed if the Court shall think fit; and in case such Deed or Instrument shall be duly Registered as aforesaid, the Petition shall be dismissed.

Stay of Proceedings.

CLIV. If a Debtor cannot obtain the assent of three-fourths in value of his Creditors by reason of his being unable to ascertain by whom Bills of Exchange, Promissory Notes, or other negotiable securities accepted, drawn, made or endorsed by him are holden, or by reason of the absence of Creditors in a foreign country or other similar circumstances, it shall be sufficient if he obtain the consent of three-fourths in number and value of all his other Creditors to such Deed or Instrument as aforesaid; provided that in either of such cases the affidavit or certificate of the Trustee or Trustees shall state the circumstances of the case, and provided the Deed or Instrument be in such form as is expressed in Schedule C to this Act annexed, which shall vest all the Estate and Effects of the Debtor in the Trustees of such Deed, and provided that all such other conditions as are hereinbefore required be duly complied with.

Where Creditors not Known.

#### AS TO PERSONS OF UNSOUND MIND.

CLV. If any person of unsound mind shall be in prison for Debt, the Gaoler shall forthwith require a Justice of the Peace to visit such Debtor, and to inquire into his state of mind, and if such Justice shall be satisfied from his own view and upon examination

Adjudication against Lunatic Debtor.

on oath of competent witnesses, that such Debtor is of unsound mind, he shall certify the same to the proper Court, and thereupon the Court may appoint some person to represent such Debtor and direct such proceedings to be taken for Adjudication in Bankruptcy against him as the Court shall think fit; and all proceedings under such Adjudication shall be had and carried on in the same manner and with the like effect as if such prisoner had been of sound mind and had presented a Petition to the Court for Adjudication of Bankruptcy, or as near thereto as the difference of circumstances will permit.

Proceedings as under Ordinary Adjudication.

AS TO NOTICES.

Notices to be sent by Post.

CLVI. All Notices by this Act or by General Orders required to be served on any person may be sent by Post addressed to the last known place of abode or business of such person, subject to such regulations and otherwise as such General Orders shall direct, provided that this present clause shall not apply to or affect Notices by this Act or by any General Order required to be personally served.

Advertisements.

CLVII. General Orders respecting the form and contents of Notices in the local newspapers and otherwise, may provide for Notices concerning more Bankruptcies than one being comprised in one Advertisement.

AS TO EVIDENCE.

Proceedings purporting to be Sealed with the Seal of the Court Receivable in Evidence.

CLVIII. Any Petition for Adjudication, or Arrangement, or Distribution, Adjudication of Bankruptcy, or Order for Distribution, Assignment, Appointment, of Official or Creditors' Assignee, Certificate, Deposition, or other Proceeding or Order in Bankruptcy, or under any of the Provisions of this Act, appearing to be sealed with the Seal of any Court under this Act, or any writing purporting to be a copy of any such document, and purporting to be so sealed, shall at all times, and on behalf of all persons, and whether for the purposes of this Act or otherwise, be admitted in all Courts whatever as evidence of such documents respectively, and of such Proceedings and Orders having respectively taken place or been made, and be deemed respectively Records of such Court, without any further proof thereof; and no such document or copy shall be receivable in evidence unless the same appear to be so sealed, except where otherwise in this Act specially provided.

Judicial Notice to be taken of Signature of Judge or Registrar and of the Seal of the Court.

CLIX. All Courts, Judges, Justices, and persons judicially acting, and other officers, shall take judicial notice of the signature of the Chief Justice or of any Commissioner or Registrar of the Court, and of the Seal of the Court, subscribed or attached to any Judicial or Official proceeding or document to be made or signed under the provisions of this Act.

CLX. If any person shall forge the Signature of the Chief Justice, or of any Commissioner or Registrar, or shall forge or counterfeit the Seal of the Court, or knowingly concur in using any such forged or counterfeit Signature or Seal for the purpose of authenticating any proceeding or document, or shall tender in evidence any such proceeding or document with a false or counterfeit Signature of any such Chief Justice, Commissioner, or Registrar, or a false or counterfeit Seal of the Court, subscribed or attached thereto, knowing such Signature or Seal to be false or counterfeit, every such person shall be guilty of felony. Any affidavit of any prisoner in any of Her Majesty's Prisons or Gaols to be used in any matter under this Act may be sworn before the Gaoler of such Prison or Gaol; and every such Gaoler is hereby required and authorized to administer the oath upon any such affidavit without fee or reward.

Forging Signature of Commissioner or Officer or the Seal of the Court.

CLXI. All Bankrupts shall, and the wives of such Bankrupts shall, when so required by the Court, make and sign the declaration contained in the Schedule D to this Act, but such declaration shall not in any case exempt such Bankrupt or Bankrupt's wife from being examined upon oath if the Court or any Creditors shall so require.

Bankrupt and Bankrupt's Wife to be examined upon Declaration and Oath.

AS TO THE POWERS OF THE COURT IN AID OF THE COURT OF  
CHANCERY.

CLXII. The Chief Justice shall, with such advice and consent as aforesaid, make such general orders and regulations for the several purposes hereinafter specified, or any of them, as he shall think fit, that is to say:

Chief Justice to make General Rules for the following purposes, viz.

For making provision for taking down the evidence and examination to be taken under the authority of this Act and for providing for the filing, depositing, and preservation of the examinations, depositions, affidavits, proceedings, certificates and reports under any reference, and the means of access to and obtaining copies of the same.

For taking down Evidence.

CLXIII. The same rules shall prevail in regard to the examination and depositions of witnesses as for the time being shall be in force with regard to the examination and depositions of witnesses in the Court of Chancery.

Rules of Examination.

CLXIV. Any person who shall before such Commissioner or Registrar wilfully give false evidence, or wilfully, swear, affirm, declare, or attest falsely in any examination, affidavit or deposition, shall be liable to the penalties and consequences of wilful and corrupt Perjury.

Perjury.

AS TO COSTS.

CLXV. The Court acting under this Act may, in all matters

Costs.

before it, award such costs as shall seem fit and just ; and all costs so awarded shall be recoverable in the same manner as costs awarded by a Rule of the Supreme Court may be recovered, and the like remedies may be had, upon an order of such Court for costs as upon a Rule of the said Supreme Court for costs : but no such order shall affect any lands, tenements or hereditaments, as to purchasers, mortgagees or Creditors, unless and until it shall be registered under the provisions of the Land Registry Act, 1860, and if necessary re-registered in like manner as (in order to bind such purchasers, mortgagees or creditors,) it must have been if it had originally been a judgment or rule obtained or entered up in the Supreme Court.

AS TO MISDEMEANORS UNDER THIS ACT.

Misdemeanors.

CLXVI. From and after the commencement of this Act, any Bankrupt who shall do any of the acts or things following, with intent to defraud or defeat the rights of his Creditors, shall be guilty of a Misdemeanor, and shall be liable, at the discretion of the Court before which he shall be convicted, to punishment by imprisonment for not more than three years, or to any greater punishment attached to the offence by any existing statute :

1. If he shall not on the day limited for his surrender and before three of the clock of such day, or at the hour and upon the day allowed him for finishing his examination, after notice thereof in writing, to be served upon him personally or left at his usual or last known place of abode or business, and after the notice herein directed in the local newspapers, surrender himself to the Court (having no lawful impediment allowed by the Court) and sign or subscribe such surrender and submit to be examined before such Court from time to time :

2. If he shall not upon his examination fully and truly discover, to the best of his knowledge and belief, all his property, real and personal, inclusive of his rights and credits, and how and to whom, and for what consideration, and when he disposed of, assigned or transferred any part thereof, except such part as has been really and bona fide before sold or disposed of in the way of his trade or business, if any, or laid out in the ordinary expense of his family, or shall not deliver up to the Court, or dispose as the Court directs, of all such part thereof as is in his possession, custody or power, except the necessary wearing apparel of himself, his wife and children, and bedding and other necessaries of himself and family, and his working tools and implements, not exceeding in the whole the value of £25 ; and deliver up to the Court all books, papers and writings in his possession, custody or power, relating to his property or affairs.

3. If he shall after adjudication or within sixty days prior to adjudication, with intent to defraud his Creditors, remove, conceal or embezzle any part of his property to the value of Ten Pounds or upwards :

4. If in case of any person having to his knowledge or belief

proved a false debt under his Bankruptcy, he shall fail to disclose the same to his Assignees within one month after coming to the knowledge or belief thereof:

5. If he shall with intent to defraud wilfully and fraudulently omit from his Schedule any effects or property whatsoever :

6. If he shall after the filing of the petition for adjudication, with intent to conceal the state of his affairs, or to defeat the object of the Law of Bankruptcy, conceal, prevent, or withhold the production of any book, deed, paper, or writing relating to his property, dealings or affairs :

7. If he shall, after the filing of the petition for adjudication, or within three months next before adjudication, with intent to conceal the state of affairs or defeat the objects of the Law of Bankruptcy, part with, conceal, destroy, alter, mutilate or falsify, or cause to be concealed, destroyed, altered, mutilated, or falsified, any book, paper, writing, or security, or document relating to his property, trade, dealings or affairs, or make or be privy to the making of any false or fraudulent entry or statement in or omission from any book, paper, document or writing relating thereto :

8. If within the like time he shall, knowing that he is at the time unable to meet his engagements, fraudulently and with intent to diminish the sum to be divided amongst the general body of his Creditors, or to give an undue preference to any of his Creditors, have paid or satisfied any such Creditor wholly or in part, or have made away with, mortgaged, encumbered, or charged any part of his property of what kind soever, or if after adjudication he shall conceal from the Court or his Assignee any debt due to or from him.

9. If, being a Trader, he shall under his Bankruptcy, or at any Meeting of his Creditors within three months next preceding the filing of the petition for Adjudication, have attempted to account for any of his property by fictitious losses or expenses.

10. If, being a Trader, he shall within three months next before the filing of the Petition for Adjudication under the false color and pretence of carrying on business and dealing in the ordinary course of trade, have obtained on credit from any person any goods or chattels with intent to defraud.

CLXVII. If it shall at any time appear to any Court under this Act that the Bankrupt has been guilty of any of the offences in the next preceding section set forth, such Court shall have and may exercise such jurisdiction, rights, powers, and privileges for the summoning, apprehending, committing, remanding, bailing, and otherwise proceeding, in respect of such Bankrupt, as are exercised by and vested in Her Majesty's Justices of the Peace in respect of persons against whom a charge or complaint shall have been made before any one or more of the said Justices in respect of any Felony or indictable Misdemeanor committed within the limits of the jurisdiction of such Justice or Justices.

Power of Judge and Commissioner.

CLXVIII. In any Indictment or Information for any Misd-

Indictment.

measur under this Act, it shall be sufficient to set forth the substance of the offence charged, without alleging or setting forth any debt, act of Bankruptcy, petition, or Adjudication, or any summons, warrant, order, rule or proceeding of or in any Court acting under this Act.

Persons disobeying  
Order of Court.

CLXIX. If any person shall disobey any Rule or Order of the Court duly made for enforcing any of the purposes and provisions of this Act, the Court may, by Warrant in Form contained in the Schedule E to this Act annexed, commit the person so offending to the Queen's Prison or to the Common Gaol, there to remain without bail or mainprise until such Court or the Court of Appeal, in case such commitment be ordered by any Commissioner, shall make order to the contrary.

AS TO THE DEFINITION AND EXPLANATION OF TERMS.

Definition of Terms. CLXX. The terms and words hereinafter enumerated or explained, wheresoever occurring in this Act, shall be understood as hereinafter defined or explained, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such definition or explanation; that is to say:

"Annulling." "Annulling," shall mean also "superseding."

"Assignee." "Assignee," shall mean the Assignee of the Estate and Effects of the Bankrupt or Petitioner, chosen by the Creditors, and until such Assignee shall be chosen, or where no such Assignee shall exist, shall mean the Official Assignee.

"Bankrupt." "Bankrupt," shall mean any person who shall be by any Court under the provisions of this Act adjudicated Bankrupt.

"Court." "Court," "The Court," "The Courts," shall mean the Supreme Court of Civil Justice sitting in Bankruptcy, and also the Court over which the Commissioner shall preside.

"Creditor." "Creditor," shall also mean any two or more persons being Partners, and Incorporated and Joint Stock Companies.

"Creditors present at any Meeting." "Creditors present at any Meeting," shall include Creditors who are represented by some person duly authorized by any such Creditor in writing.

"Gaoler." "Gaoler," shall include the Keeper or Governor of any Gaol or Prison.

"Oath," "Affidavit." "Oath," "Affidavit," shall mean and include the Declaration or Affirmation of any person whom any Act of the Legislature shall have authorized to make such Declaration or Affirmation in lieu of an Oath.

"Petition for Adjudication," or "Petition in Bankruptcy," shall mean any Petition by or against a Debtor for Adjudication of Bankruptcy. "Petition for Adjudication of Bankruptcy."

"Petitioning Creditor," shall mean the Creditor who filed the Petition for Adjudication. "Petitioning Creditor."

"Property," shall mean and include all the Real and Personal Estate and Effects of the Petitioner or Bankrupt within this Colony and abroad (except as herein provided) and all the future Estate, Right, Title, Interest and Trust of such Petitioner or Bankrupt, in or to any Real or Personal Estate and Effects, within this Colony or abroad, which may revert, descend, be devised, or bequeathed, or come, and all debts due or to be due to him before he shall have obtained his discharge. "Property."

"Prisoner," shall mean any person in actual custody within the walls, rules, or liberties of any Prison in the Colony of Vancouver Island, for any debt, damages, costs, sum or sums of money, or for any contempt by reason of non-payment of any sum or sums of money or costs. "Prisoner."

"Suit," shall include Action at Law and Suit in Equity, or other proceeding. "Suit."

For the purposes of this Act, all persons shall be deemed Traders who prior to the commencement of this Act would have been liable to be adjudicated Bankrupt under the Laws of Bankruptcy then in force. "Trader."

In all cases in which any particular number of days is prescribed by this Act, or shall be mentioned by any Rule or Order of Court which shall at any time be made under this Act; for the doing of any act, or for any other purpose, the same shall be reckoned in the absence of any expression to the contrary, exclusive of the first and inclusive of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, Good Friday, Monday and Tuesday in Easter Week, or a day appointed for a Public Fast or Thanksgiving, and on such other days as the Chief Justice may appoint by General Orders, in which case the time shall be reckoned exclusive of that day also. "Computation of Time"

Words importing the singular number, or the masculine gender only, shall be understood to include several matters as well as one matter, and several persons as well as one person, and bodies corporate as well as individuals, and females as well as males; and words importing the plural number shall be understood to apply to one matter as well as more than one, and to one person as well as more than one. "Number and Gender."

CLXXI. The Acts and parts of Acts set forth in Schedule F. to Repeal of Acts.



this Act, to the extent to which they are therein expressed to be repealed, and all other Acts or parts of Acts which are inconsistent with this Act are repealed ; but such repeal shall not affect any proceeding pending, or any right that has arisen or may arise, or any penalty incurred or that may be incurred, in respect of any transaction, act, matter or thing done or existing prior to or at the commencement of this Act, under or by virtue of any of the Acts or parts of Acts repealed.

Act to take effect first day of March, 1862.

CLXXII. This Act, except where otherwise specially provided, shall commence and take effect from and after the first day of March, one thousand eight hundred and sixty-two, and may be cited for all purposes as "The Bankruptcy Act, 1862."

Passed the House of Assembly the 29th day of October, A. D. 1861. Council Amendments agreed to the 30th day of January, 1862.

E. BOWERS DOGGERT,  
Clerk of the House of Assembly.

Passed the Council the 14th day of January, A. D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this first day of February, A. D. 1862.

JAMES DOUGLAS, Governor.

## SCHEDULE A.

DOCUMENT.	FEEs. £ s. d.
Every Petition presented to the Court of Bankruptcy for Adjudication of Bankruptcy, or for arrangement between any Debtor and his Creditors, or for the distribution of the Estate and Effects of a deceased Debtor.....	5 0 0
Every such Petition when presented to the Court by Traders whose Debts do not exceed £300.....	1 0 0
Every Order of Discharge.....	1 0 0
Every Declaration of Insolvency.....	2 6
Every Registration of Trust Deeds.....	10 0
Every Summons of Judgment Debtor or Debtors.....	2 6
Every Admission of such Debtor.....	2 6
Every Deposition of Good Defence.....	2 6
Every Bond with Sureties.....	6 0
Every Application for Search for Petition or other Proceeding.....	1 0
Every Application for Appointment of any Private Sitting or Meeting in any matter under this Act.....	5 0
Every Allocatur by any Officer of the Court for any Costs, Charges or Disbursements, where such Bill of Costs shall not exceed £5.....	1 6
Exceeding £ 5, and not exceeding £ 10.....	2 6
"    10    "    "    20.....	5 0
"    20    "    "    30.....	7 6
"    30    "    "    50.....	10 0
"    50    "    "    100.....	15 0
"    100   "    "    150.....	1 0 0
"    150   "    "    200.....	1 10 0
"    200   "    "    300.....	2 0 0
"    300   "    "    600.....	3 0 0
"    500.....	5 0 0

## SCHEDULE B.

### BANKRUPTCY ACT, 1862.

(In Bankruptcy.)

Warrant of Commitment of Bankrupt or other Party for unsatisfactorily answering, or for refusing to sign his Examination.

**COURT OF BANKRUPTCY:**

Whereas, G. H. of —, in the District of —, was on the — day of —, duly sworn and examined in this Court, and the said — was again on the — day of — duly sworn and examined in this Court, as by the Examination and Deposition of the said —, now on the file of Proceedings in this matter, will appear.

And whereas, the answers of the said —, as now so appearing in said Examination and Deposition, are unsatisfactory, (or the said — refused to sign and subscribe this said Examination and Deposition).

These are therefore to authorize and require you, immediately upon the receipt hereof, to take into your custody the said —, and him safely convey to Her Majesty's prison of —, and him there to deliver to the Governor of the said prison, who is hereby authorized and required to receive the said — into his custody there, and him safely keep and detain without Bail, until this Court, or the Court of Appeal in Chancery sitting in Bankruptcy, shall make an Order to the contrary. And for so doing this shall be your sufficient Warrant.

Given under the Seal of the Court, this — day of —, 18—.

J. K., Commissioner.

To — and to —, Governor of the said Prison, or his Deputy there.

SCHEDULE C.

This Deed, made the — day of —, between A. B. (the Debtor) and C. D. and E. F. (the Trustees,) on behalf and with the assent of the undersigned Creditors of A. B., witnesseth that A. B. hereby conveys all his Estate and Effects to C. D. and E. F., absolutely, to be applied and administered for the benefit of the Creditors of A. B., in like manner as if A. B. had been at the date hereof duly adjudged Bankrupt.

In witness, &c.

[SCHEDULE OF CREDITORS.]

SCHEDULE D.

THE BANKRUPTCY ACT, 1862.

Form of Declaration to be made by the Bankrupt or the Bankrupt's wife.

I, A. B., the person declared a Bankrupt under a Petition for adjudication of Bankruptcy filed on the — day of —, in the year of our Lord — (or I, C. D., the wife of A. B., declared a Bankrupt under a Petition for adjudication of Bankruptcy filed on the — day of —,) do solemnly promise and declare that I will make true answer to all such questions as may be proposed to me respecting all the property of the said A. B., and all Dealings and Transactions relating thereto, and will make a full and true disclosure of all that has been done with the said property, to the best of my knowledge, information and belief.

Signed, A. B., (or C. D., the wife of the said A. B.)

SCHEDULE E.

THE BANKRUPTCY ACT, 1862.

Warrant against any person disobeying any Rule or Order of Court.

Whereas by a Rule (or an Order) of this Court, bearing Date the — day of — made for enforcing the purposes and provisions of the Bankruptcy Act 1862 (or if of any other Act hereafter in force relating to the subject matters of this Act, or made or entered into by consent for carrying into effect any of such purposes or provisions, alter the Recital accordingly) it was ordered that, (&c. &c. as in the Rule or Order) —.

And whereas it is now proved that after the making of the said Rule (or Order) that is to say, on this — day of —, a Copy of the said Rule (or Order) was duly served on the said — personally, and the original Rule (or Order) at the same time shown to him, but the said — then refused (or neglected) to obey the same, and hath not as yet obeyed the said Rule (or Order).....

These are therefore to will and require, and authorize you immediately upon receipt hereof to take into your custody the body of the said A. B. and him safely convey to Her Majesty's Gaol (or prison) of — (or called —) and him there to deliver to the Keeper of the said prison, together with this precept, and the Keeper of the said prison is hereby required and authorized to receive the said A. B. into his custody, and him safely to keep and detain without Bail or Mainprise, until this Court, or the Court of Appeal in Chancery sitting in Bankruptcy, shall make order to the contrary, and for so doing this shall be your sufficient Warrant.

Given under my Hand and the Seal of Court, at the Court of Bankruptcy, Victoria, this — day of —, in the Year of our Lord One Thousand Eight Hundred —.

A. B. [L. s.]

Commissioner.

To — or his Assistant, and to the Keeper of Her Majesty's Prison (or Gaol) of — (or called —), or his Deputy there.

## SCHEDULE F.

## ACTS AND PARTS OF ACTS REPEALED.

<i>Date of Act.</i>	<i>Title.</i>	<i>Extent of Repeal</i>
1 & 2 Vict. C. 110.	An Act for Abolishing Arrest on Mesne Procees in Civil Actions, except in certain cases; for extending the Remedies of Creditors against the Property of Debtor; and for Amending the Laws for the Relief of Insolvent Debtors in England.	The whole, except SS. 1 to 22, both inclusive.
5 & 6 Vict. C. 116.	An Act for the Relief of Insolvent Debtors.	The whole.
7 & 8 Vict. C. 96.	An Act to Amend the Laws of Bankruptcy, Insolvency and Execution.	Sec. 1 to 66, both inclusive.
10 & 11 Vict. C. 102.	An Act to Abolish the Court of Review in Bankruptcy and to make alterations in the Jurisdiction of the Court of Bankruptcy and Court for Relief of Insolvent Debtors.	The whole, except Sec. 4.
12 & 13 Vict. C. 106.	An Act to Amend and Consolidate the Laws relating to Bankrupts.	Sec. 8, 16, 18, 26, 39, 41, 43, 52, 64, 66, 60, 62, 63, 64, 70, 72, 73, 91, 93, 139, 160, 164, 183, 185, 187, 188, 189, 190, 194, 195, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207. SS. 211 to 231, both inclusive. SS. 251, 252, 253, 255, 256, 257, 258, 259, and such other parts of the said Act as may be inconsistent with this present Act.
15 & 16 Vict. C. 77.	An Act to Abolish the Office of Lord Chancellor's Chief Secretary of Bankruptcy, and to regulate the Office of Chief Registrar of the Court of Bankruptcy.	Section 10.
17 & 18 Vict. C. 119.	An Act for Regulating Appointments to Offices in the Court of Bankruptcy, and for Amending the Laws relating to Bankrupts.	Sections 3, 11, 12, 13, 14, 15, 20, 21, 22, 25, 26, 27.



# AN ACT

## To authorize the Governor of Vancouver Island and its Dependencies, to Borrow Money for temporary purposes.

**W**HEREAS, it is expedient to authorize the Governor for the time being, to borrow on the security of the Revenue of the current year, any sum of money not exceeding in the whole the sum of Four Thousand Pounds, (£4,000) which may be required for the public service.

Be it therefore enacted by the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies :

*The Governor may raise £4,000, debentures at a rate of interest not exceeding one and a half per cent. per month.*

I. It shall and may be lawful for the Governor for the time being of Vancouver Island and its Dependencies, by Warrant under his hand and seal, to authorize the Treasurer for the time being to raise any sum of money not exceeding in the whole the sum of Four Thousand Pounds, (£4,000) upon the security of the Revenue of the current year, by the issuance of Debentures of One Hundred Pounds, (£100) each payable within sixty days

after date, and bearing interest after a rate not exceeding one and a half per cent. per month.

### *Form of Debenture.*

II. Such Debentures shall be in the form marked A. in the Schedule hereunto annexed, and shall bear date on the day of the issuing thereof, and shall not be issued at a discount.

### *Debentures to be Registered by the Auditor.*

III. All Debentures made out and issued under this Act shall be entered in a Register to be called the "Temporary Debenture Register," and kept by the Auditor of the said Colony ; and shall be deemed a primary charge upon the General Revenue of the current year, from whatever source, except the Harbour Act hereinafter mentioned ; and all interest thereon, and the principal when due, shall be paid by the Treasurer out of such Revenue, under Warrant to be issued by the said Governor, in priority of all demands thereon, except the charges and expenses of the collection thereof.

*Debentures to be made payable to Bearer only, and to pass by delivery.*

“ Vancouver Island Temporary Loan Act, 1862.”

IV. The said Debentures shall be made payable to the Bearers thereof, and shall pass by delivery and without any assignment or endorsement; and the Bearer of every such Debenture shall have the same rights and remedies as if he were expressly named thereon.

Passed the House of Assembly the 15th day of May, A. D. 1862.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 28th day of May, A. D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

*Penalty on Forgery.*

Received my assent the 29th day of May, A. D. 1862.

V. Any person who shall forge or alter, or who shall offer, utter or dispose of, or put off, knowing the same to be forged or altered, any Debenture made out and issued under this Act, shall be guilty of Felony, and being thereof convicted, shall be imprisoned for any period not exceeding three years, with or without hard labor, at the discretion of the Judge before whom any such person shall be tried and convicted.

JAMES DOUGLAS,  
Governor.

SCHEDULE.

FORM A.

Under the authority of the “ Vancouver Island Temporary Loan Act, 1862.”

This Debenture entitles the Bearer to ..... Pounds sterling on the ..... day of ..... one thousand eight hundred and ..... which, with interest after the rate of ..... per centum per mensem, is hereby secured on the General Revenue of the Colony of Vancouver Island for the current year.

Dated the ..... day of ....., 18..

(Signed) .....  
Treasurer.

Entered at the Audit Office, in the Temporary Debenture Register, &c.

(Signed) .....  
Auditor.

*Saving of Harbour Fund from operation of this Act.*

VI. That the Moneys and Dues paid into the Treasury to the Harbour Fund account, shall not be included in the current Revenue upon which the said Principal and Interest secured by the said Debentures is charged, but such Moneys and Dues shall be paid as in the Victoria Harbour Act, 1860, provided.

*Short Title.*

VII. This Act may be cited as the



# AN ACT

## To confirm the appointment of certain Members of the Court of Revision under "The Real Estate Tax Act, 1860."

WHEREAS, many Members of the Court of Revision under "The Real Estate Tax Act, 1860," appointed by the Governor of Vancouver Island, have left this Colony;

And whereas the said Governor has been compelled by the absence of such members to appoint certain persons to be members of the said Court of Revision in lieu of such absent members;

And whereas doubts have been entertained as to the validity of the said appointments;

Be it therefore enacted by the Governor on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies:

*Persons appointed Members of the Court of Revision to have all the powers of those originally appointed.*

I. That the persons at the date of this Act appointed by the said Governor to be Members of the Court of Revision, under "The Real Estate Tax Act, 1860," shall have and exercise the same powers, privileges and functions as if they had been originally appointed Members of the Board

of Revision in lieu of the said absent members.

*Their acts to be valid.*

II. All acts of the Board of Revision as constituted at the date of this Act, shall be valid and effectual to all intents and purposes whatsoever.

*Short Title.*

III. This Act may be cited for all purposes as the "Revisor's Confirmation Act, 1862."

Passed the House of Assembly the 23d day of May  
A. D. 1862.

E. BOWERS DOGGETT,  
Clerk of the House of Assembly.

Passed the Council the 11th day of June, A. D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 12th day of June, A. D. 1862.

JAMES DOUGLAS,  
Governor.



# AN ACT

**To enlarge the time limited by the "Victoria Gas Company's Act, 1860," and the "Victoria Gas Company's Extension Act, 1861," for the Establishment of Gas Works and Buildings by the Victoria Gas Company.**

**WHEREAS**, by the second section of the Victoria Gas Company's Act, 1860, it was, amongst other things, provided that the Victoria Gas Company should, subject to the provisions therein contained, have the exclusive right, liberty and privilege of selling Gas in the Town of Victoria, and laying down, and relaying, and connecting, disconnecting and repairing all pipes, along, through, under and over the streets, alleys, grounds and thoroughfares of the said town, that may be necessary for supplying gas to the consumers thereof, for the term of five years from the final passage of the said act.

And whereas it was by the third section of the said act further provided, that the Company should within one year from the passage of the said act, unavoidable casualties of the sea and fire not preventing, establish Gas-works and Buildings ade-

quate to the supply of the Town of Victoria, and lay not less than five thousand feet of mains of an adequate diameter, and supply therefrom to all persons as therein mentioned an adequate amount of Gas of good quality, at the house, shop, establishment or residence of the person requiring the same.

And whereas the said "Victoria Gas Company's Act, 1860," finally passed into law on the 19th day of December, 1860.

And whereas by the "Victoria Gas Company's Extension Act, 1861," it was enacted that the said Company should and might establish, lay and supply the works, buildings, mains, and gas aforesaid, within an additional period of six months from the expiration of the said twelve months mentioned in the said "Victoria Gas Company's Act, 1860."



And whereas "The Victoria Gas Company's Extension Act, 1861," finally passed into law on the 19th day of December, 1861.

And whereas the said additional six months will expire on the 19th day of June, 1862.

And whereas the said Company has met with many great and unavoidable delays in carrying their said undertaking into execution, and it is expedient to give a further extension of time, during which they shall be authorized to establish, lay and supply the works, buildings, mains, and gas aforesaid, and to further extend the exclusive privilege granted to them by the second section of the said "Victoria Gas Company's Act, 1860."

Be it therefore enacted by the Governor on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly of Vancouver Island and its dependencies as follows:

I. The said Company shall and may establish, lay and supply the works, build-

ings, mains and gas aforesaid within an additional period of three months from the passage of this Act.

II. The exclusive rights, liberties and privileges in the second section of the "Victoria Gas Company's Act, 1860," mentioned, shall, subject to the provisions in the said "Victoria Gas Company's Act, 1860," contained, be enjoyed, and had by the said Company for the term of five years from the passage of this Act.

*Short Title.*

III. This Act may be quoted as "The Victoria Gas Company's Extension Act, 1862."

Passed the House of Assembly, 9th June, A.D. 1862.

E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council, 30th June, A.D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent, this 3rd day of July, A.D. 1862.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To authorize the Chief Justice of Vancouver Island and its Dependencies to make certain necessary appointments.

**W**HEREAS, by the 83rd section of an Act made and passed in the 3rd and 4th years of His late Majesty King William the Fourth, chapter seventy-four, and intituled an Act for the abolition of fines and recoveries and for the substitution of more simple modes of assurance, it was declared,

“That in those cases where by residence beyond seas, or ill health, or any other sufficient cause any married woman shall be prevented from making the acknowledgment required by the said Act before a Judge or Master in Chancery, or of any of the Perpetual Commissioners to be appointed as therein mentioned, it shall be lawful for the Court of Common Pleas at Westminster, or any Judge of that Court, to issue a Commission specially appointing any persons therein named to be Commissioners to take the acknowledgment by any married woman to be therein named of any such deed as aforesaid ;

“ Provided always, that every such Commission shall be made returnable within

such time to be therein expressed, as the said Court or Judge shall think fit.”

And whereas there is no authority in the Colony of Vancouver Island and its Dependencies capable of issuing a Commission specially appointing any persons therein named, to be Commissioners to take the acknowledgment by any married woman, to be therein named, of any such deed as aforesaid ;

And whereas it is expedient that such authority should be vested in the Chief Justice of Vancouver Island and its Dependencies ;

And whereas it is provided by an Act made and passed in the twenty-fifth year of His late Majesty King George the Third, chapter thirty-five, that the lands of Crown Debtors may be sold for the satisfaction of Crown Debts, in the event of the goods of the Crown Debtor proving insufficient in that behalf, and that the said lands shall be conveyed to the purchaser thereof by the Queen’s Remembrancer ;

And whereas there is no such Officer as

the Queen's Remembrancer in this Colony, and it is expedient to appoint some person to perform the duties of such office ;

Be it enacted by the Governor, on Her Majesty's behalf, by and with the consent and advice of the Legislative Council and Assembly, as follows :

I. The Chief Justice of the Supreme Court of Civil Justice, in cases where by residence beyond seas, or ill health, or any other sufficient cause, any married woman shall be prevented from making the acknowledgment required by the said Act firstly hereinbefore recited before a Judge or Master in Chancery, or any of the Commissioners to be appointed, as in the said firstly hereinbefore recited Act is mentioned, may issue a Commission specially appointing any persons therein named to be Commissioners to take the acknowledgment by any married woman to be therein named, of any such Deed, as in the 83rd section of the said Act is referred to, as fully and as effectually to all intents and purposes as the Court of Common Pleas at Westminster or any Judge thereof might do.

II. Provided always that every such Commission shall be made returnable within such time, to be therein expressed, as the said Chief Justice shall think fit.

III. Every Deed of the character referred to in the said 83rd section of the said Act, executed by a married woman before such special Commissioners as may be appointed by the said Chief Justice in manner aforesaid, shall be executed under

the formalities and in the manner provided by the said firstly hereinbefore recited Act, and shall have the same force, effect, and validity, as if it had been executed before special Commissioners appointed as in the 83rd section of the said firstly hereinbefore mentioned Act is mentioned.

IV. All conveyances and grants of any land of any Debtor to the Crown, seized under a Writ of Extent, and sold by order of the Supreme Court of Civil Justice under the said recited Statute of 25 G. III, ch. 35, if made by the Registrar of the said Supreme Court by virtue of an order in writing, under the hand of the Chief Justice and the seal of the said Supreme Court, shall vest in the purchaser thereof a valid estate of fee simple, subject, nevertheless, to such incumbrances as may by the law of this Colony have priority over the Crown Debt.

*Short Title.*

V. This Act may be cited as "The Provisional Appointments Act, 1862."

Passed the House of Assembly 29th May, A. D. 1862. Council Amendments agreed to 4th July, 1862.

E. BOWERS DOUGGETT,  
Clerk of the House.

Passed the Council 30th June, A. D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 9th day of July, A. D. 1862.

JAMES DOUGLAS.  
Governor.



# AN ACT

## To Establish Fire Limits within the Town of Victoria.

**WHEREAS**, it is expedient to prohibit the erection of Wooden Buildings within the Town of Victoria ;

Be it enacted by His Excellency the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly :

I. That from and after the passage of this Act, no person shall erect any Wooden Building more than Eighteen feet high, and not more than one story, within the limits of that portion of the Town of Victoria which is described in the Schedule to this Act annexed, under the penalty of Five Hundred Pounds for each month during which such Building shall be erected, or in the course of erection.

II. Until the passage of an Act for the Incorporation of the Town of Victoria, the penalties aforesaid shall be recoverable in an action at the suit of the Attorney General, and shall be paid into the Treasury for the use of Her Majesty, Her Heirs and Successors.

III. From and after the passage of such Act as last aforesaid, the said penalties shall be recoverable in an Action at the suit of the said Corporation.

IV. The person paying over such penalties may pay the same to such person as may be appointed by the said Town Council, upon the production of an order for payment to some person named therein, signed by the Clerk of the Council, and countersigned by the Mayor or Presiding Councillor.

### *Short Title.*

V. This Act may be cited as "The Victoria Fire Limit Act, 1862."

Passed the House of Assembly, 1st July, A.D. 1862.

E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council, 8th July, A.D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent, this 9th day of July, A.D. 1862.

JAMES DOUGLAS.

Governor.

### SCHEDULE.

All that piece of land bounded by Johnson Street on the North ; the west side of Broad Street on the East ; the north side of Fort Street on the South ; by the Harbour on the West.



# AN ACT

## To protect the Property of a Wife deserted by her Husband.

**W**HEREAS, it is expedient to protect the property of a Wife deserted by her Husband ;

Be it therefore enacted by the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :

I. That from and after the passing of this Act, a Wife deserted by her Husband may at any time after such desertion, if resident within the Colony, apply to the Chief Justice of the Colony of Vancouver Island, or to a Police Magistrate, or Justice, or to the Justices in Petty or Quarter Sessions, for an order to protect any Money or Property she may acquire by her own lawful industry, and any Property which she may become possessed of after such order against her husband or his creditors or any person claiming under him ; and such Chief Justice, Police Magistrate, Justice or Justices in Petty or Quarter Sessions, if satisfied of the fact of such desertion, and that the same was without reasonable cause, and that the Wife is maintain-

ing herself by her own industry or property, may make and give to the Wife an order protecting her earnings and property acquired since the date of such order, from her husband and all creditors and persons claiming under him, and such earnings and property shall belong to the Wife as if she were a *feme sole*.

II. Provided always that every such order, if made by a Police Magistrate, Justice, or Justices at Petty or Quarter Sessions, shall, within ten days after the making thereof, be entered with the Registrar of the Supreme Court ; and if such order be made by the Chief Justice, be entered at the time of making thereof, by the said Registrar ; and that it shall be lawful for the husband and any creditor or other person claiming under him, to apply to the Supreme Court for the discharge thereof.

III. Provided also, that if the husband, or any creditor of, or person claiming under the husband, shall seize or continue

to hold any property of the Wife after notice of any such order, he shall be liable at the suit of the Wife (which she is hereby empowered to bring) to restore the specific property, and also for a sum equal to double the value of the property so seized or held after such notice as aforesaid.

IV. If any such order of protection be made, the Wife shall, during the continuance thereof, be, and be deemed to have been, from the date of such order, in the like position in all respects with regard to property and contracts, wrongs and injuries, and suing and being sued, as she would be if she were a *feme sole* or had obtained a decree of Judicial separation from a court of competent jurisdiction; and her husband shall not be liable in respect of any engagement or contract made by her, or for any wrongful act or omission by her;

or for any costs she may have incurred during continuance of any such order of protection as aforesaid.

*Short Title.*

V. This Act may be cited as "An Act to protect the property of a Wife deserted by her husband."

Passed the House of Assembly 12th May, 1862.  
Council Amendments agreed to 8th July, 1862.

E. BOWERS DOGGERT,  
Clerk of the House.

*In Council.*—Read a third time and passed the 11th day of June, A.D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 10th day of July, A.D. 1862.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To authorize the appointment of a Sanatory Commission for the Town of Victoria, and to define the powers thereof.

**W**HEREAS it is expedient to appoint a Sanatory Commission pending the passage of an Act for the Incorporation of the Town of Victoria, and to enable such Commission to abate all nuisances within the same Town.

Be it enacted by His Excellency the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :

I. From and after the passage of this Act the Governor may from time to time, by some writing under his hand, nominate as many persons as he may think desirable to be Commissioners for any place in the Colony, and for the purpose of inspecting and removing all nuisances and other matters whose continuance may be deleterious to the public health.

II. Any person nominated as Commissioner may at any time resign his appointment, and the Governor may from

time to time fill up all vacancies in the said Commission.

III. Any Commission nominated for the Town of Victoria shall cease to exist immediately upon the passage of any Act for the Incorporation of the Town of Victoria, and shall not be reappointed.

IV. The Commission shall perform their services gratuitously.

V. The Commission shall have power to enter any Messuage, Dwelling-house, Shop, Barn, Stable, Warehouse, or Out-house, or the Curtilage thereof, and inspect the condition of the same, between the hours of eight in the morning and eight in the evening.

VI. The Commission may, if they shall so think desirable, direct the removal, by the tenant or occupier, from the premises of any matter which in their discretion they may deem deleterious to the public

health, to such place or in such manner as to them may seem best.

VII. The Commission may direct the closing or cleansing of any Cesspool, Sink, Drain, Hole or Gutter, by the tenant or occupier of the premises in or through which the same is or runs, whose continuance in an open state they may deem inadvisable; and the cutting, making, and opening of any Drain, Ditch or Gutter, and the covering and closing the same when made, through any premises, by the person resident on or occupying the same, as they may deem advisable; and may also order the white-washing or purification of any building thereof.

VIII. Wherever in this Act the Commission is empowered to do any act, any three members of the Commission may do the same.

IX. The Commission may notify any person on, or occupying any such Messuage, Dwelling-house, Shop, Barn, Stable, Warehouse, or Outhouse, to remove such nuisance as before mentioned, or to cut, make, or open any such Drain, Ditch or Gutter; or to close up, or cover, or cleanse any such Cesspool, Drain, Ditch or Gutter, when made, or to purify or whitewash any Building, by giving notice in writing to such person signed by any three of such Commissioners, and specifying the act to be done, and the time within which the same is required to be done; such notice to be given by affixing the same on the premises.

X. In the event of there being no person resident on, or occupying the premises sought to be whitewashed or purified, or from which a nuisance is sought to be re-

moved, or a Drain, Ditch, or Gutter cut, or a Cesspool, Sink, Drain, Hole, or Gutter sought to be filled up, cleansed or covered in, the Commission may after notice in writing to all whom it may concern, signed, specifying, and affixed, as aforesaid, has been so affixed for three clear days, do the act required for the preservation of the public health, and recover the amount expended on the premises by a suit in the Supreme Court of Civil Justice for inferior cases for work and labor, against the owner of the same premises; such action to be brought in the name of the Sanatory Commission.

XI. In case of any person making default in fulfilling the requisition of the Commission with regard to any of the matters aforesaid, or in case of non-compliance for three clear days with the notice so affixed in manner last aforesaid, it shall be lawful for the Commission to employ some person to do the act, and upon completion of the said work, to pay the person so employed a fair price for performing the said work, and to state an account of the same, and to leave the same upon the premises where the work has been done, with a memorandum endorsed thereon in the form following:

#### MEMORANDUM.

"To the occupier or owner of these premises—

"You are hereby required to pay the above amount of £. s. d. . to the Sanatory Commission, on or before the . . . . . day of . . . . . otherwise you will be proceeded against in a summary manner.

Dated, this . . . . . day of . . . . .

XII. In default of payment within the



period mentioned in such memorandum, not being less than seven (7) days from the date thereof, any Justice of the Peace may issue a summons against such person or persons, giving him or them twenty-four hours time to pay the amount in question to the Clerk of the Police Court; and in the event of such notice not being complied with, the amount in question (and also the costs of said summons, not exceeding in any case the sum of two pounds) shall be levied by distress and sale of the chattels of the defaulter. On the failure of a sufficient distress the defaulter shall be liable to imprisonment for thirty days with or without hard labour at the discretion of the Justice.

*Short Title.*

XIII. This Act may be cited as "The Provisional Sanatory Commission Act, 1862."

Passed the House of Assembly 7th July, A.D. 1862.

E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council 18th July, A.D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 19th day of July, A.D. 1862.

JAMES DOUGLAS.  
Governor.



# AN ACT

## To enable the Surveyor General of Vancouver Island to authorize the closing of part of the Old Saanich and Burnside Road, also known as the North Road.

WHEREAS, it has been found necessary to alter the direction of part of the Saanich and Burnside Road ;

Be it therefore enacted, by the Governor, on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly ;

I. That the Surveyor General be and hereby is authorized, at his discretion, to sanction the closing up on the part of adjacent land-owners of certain portions of the old Saanich and Burnside Road, as soon as the new lines of Road replacing these shall have been thrown open to the public.

II. That the Surveyor General be and hereby is authorized, forthwith to lay out a line of Junction between the Burnside and New Saanich Roads at the most eligible point not less than half a mile, nor more than a mile and a half from the Northern Boundary of the Town.

III. Provided, always, that the said Surveyor General shall cause to be given to every owner of land or his agent lawfully authorized, through which the new Road is to be made, and through which the Road

proposed to be stopped up passes, a notice of his intention to close the said Road and open the new one ; and shall also insert in one or more newspapers published in the Colony, a public notice to the same effect, accurately describing the Roads so closed and opened, as aforesaid.

Any person feeling himself aggrieved by the closing up of the said Road, may, within fourteen days after the publication of such notice, complain to the Surveyor General, stating his objections to such new Road or the closing of such old Road, and the Surveyor General shall finally decide such complaints and adjudicate thereon.

### *Short Title.*

IV. This Act may be cited for all purposes as "The Burnside Road Act, 1862."

Passed the House of Assembly, 2nd June, 1862.  
Council amendments agreed to 4th August, 1862.

E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council, 25th July, A.D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent, this 5th day of August,  
A.D. 1862.

JAMES DOUGLAS,  
Governor.



# AN ACT

## To Incorporate the City of Victoria.

**W**HEREAS, it is expedient that the District commonly known as Victoria Town should be Incorporated, shall, subject to the provisions of this Act, be placed under the control of a Council.

Be it enacted by the Governor, on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies,

The Council shall consist of a Mayor and six Councillors, possessed of the qualifications and subject to none of the disqualifications hereinafter specified, namely:

### *Qualifications.*

I. That from and after the passage of this Act, the tract of land specified in the first part of the first Schedule hereto, shall be incorporated as a City, to be called "the City of Victoria," the said City shall be divided into three Wards:

The Johnson street Ward, the Yates street Ward, and the James' Bay Ward.

The Johnson street Ward shall include the tract of land specified in the second part of the said first Schedule.

The Yates street Ward shall include the tract of land specified in the third part of the said first Schedule.

The James' Bay Ward, the tract of land specified in the fourth part of the said first Schedule.

II. That the government of the City

III. Being a male British subject of full age.

Having resided within the Island of Vancouver and its dependencies for a space of six calendar months previous to election;

Being at and having been for three calendar months next preceding the time of election, rated on the Municipal Assessment Roll of the same City in respect of freehold to at least the value of £50, or in respect of leaseholds to at least the value of £150.

Provided always, that at the first election of a Mayor and Councillors, the qualification of such Mayor and Councillors shall, as to property, be as follows:

Possession in his own right of real property within the city to the market values,

Of Freehold, £50.

If of Leasehold, £600.

*Disqualifications.*

IV. Being a Minister of any Religious Denomination.

Being a Sheriff, or a Sheriff's Officer.

Being a Member of the Legislative Council, or of the House of Assembly.

Being a Bankrupt, Insolvent Debtor, Felon, or Outlaw.

Having taken the oath of allegiance to, or having become the subject or citizen of any Foreign State or Nation, unless he shall subsequently thereto have taken the oath of allegiance to Her Majesty, Her Heirs and Successors, before the Chief Justice of Vancouver Island, six months at least before the time of election.

Having directly or indirectly any contract with the Corporation.

Being naval or military officers on full pay, or the Judge of any Court of Criminal or Civil Jurisdiction, or being in receipt of any allowance from the Corporation.

*Manner of Electing Councillors.*

V. The Candidate for the Mayorship (being duly qualified therefor), who shall obtain the greatest collective number of votes, shall be Mayor.

There shall be Two Councillors elected in manner hereinafter mentioned, in each of the said Wards.

The two candidates in each Ward (duly qualified) who shall obtain the greatest number of votes in the Ward for which they may stand, shall be Councillors.

Every person possessed of the qualifications and under none of the disqualifications hereinafter mentioned concerning electors of the said Corporation, shall have

one vote only in the election of a Mayor, and in addition to his vote in the election of a Mayor, shall also have two votes in the election of Councillors for each Ward wherein he has property qualifications; but in voting for Councillors he shall only vote once in the same Ward, and may either split his vote between the candidates or vote for one only, and if he shall vote for one only, his vote shall only count one.

The voting for Mayor and Councillors shall be open, and no person shall vote by proxy.

*Duration of Office of Mayor and Councillors.*

VI. The Mayor and Councillors shall be elected for one year, provided always, that if the Mayor, or any of the Councillors, or any person on his or their behalf, or any person in partnership with him or them, shall enter into or obtain any interest directly or indirectly, in any contract entered into by or with the Corporation, such Mayor or Councillor having any interest in any contract as aforesaid, shall immediately be disqualified from continuing Mayor or Councillor as the case may be.

Provided always, that if any Mayor or Councillor shall vote at any meeting of the Council, or shall not resign his office within the space of one calendar month from the time when he shall have entered into or obtained any interest in any such contract as aforesaid, such Mayor or Councillor shall forfeit to the Corporation a sum of £500, and all interest in the contract, and as to the said sum the same may be recovered by action, to be brought in the name of the Corporation of the City of Victoria; but all votes given under such circumstances shall be valid.

*Time of Election of Mayor and Councillors.*

VII. The nomination shall be on the 8th day of November in each year, and the polling (if any) on the day following; provided that, if either of the said days shall fall on a Sunday, the nomination or election shall take place on the following day.

The nomination and poll at the first election shall be held on the 14th and 15th days next subsequent to the passage of this Act; provided that if such days, or either of them, shall fall on a Sunday, the nomination or election shall take place on the following day; provided that the persons elected at the first election shall retain office until the 8th day of November in the next year.

*Place of Voting.*

VIII. The poll shall be held in such place in each Ward, not being in, or in the immediate vicinity of a Fire Department Establishment, or in a place licensed for the sale of liquor, as shall be, in that behalf appointed, namely: at the first election as appointed by the Sheriff; and at every election after the said first election, as the outgoing Council shall appoint, or in default thereof as the Sheriff shall appoint.

The Sheriff, or outgoing Council, as the case may be, shall give at least seven days' notice of the place of nomination and poll in each Ward by advertisement thereof, in one or more newspapers published in the City.

The vote for Mayor shall be given in Yates street Ward and no other.

*Nomination and Poll.*

IX. The Sheriff shall appoint the returning officers, if any, for the first election; after which, the Council shall appoint the same previous to any ensuing election.

The Sheriff shall, on the day of nomination in Yates street Ward, at noon, nominate such persons as shall be put in nomination, in that behalf, by some duly qualified voter, as candidates for the office of Mayor, or Councillors, as the case may be; a show of hands shall then take place, and the Sheriff shall thereupon declare which of the candidates has or have been elected by the show of hands.

Any candidate or voter, on his behalf, may thereupon demand a poll, which shall be taken on the day of election, and the Sheriff shall, within 24 hours after the close of the poll, publicly declare the number polled for each candidate, and who has or have been elected by the greatest number of votes.

In case of a poll being demanded, the poll books and lists of voters for each Ward shall be supplied at the first election by the Sheriff, and at every subsequent election by the Council to the Returning Officer.

The polls shall be kept open between the hours of eight o'clock a.m., and four o'clock p.m. At the close of the poll the Returning Officers shall immediately deliver to the Sheriff the poll books sealed.

In the election of Councillors, if there be an equality of votes, the Sheriff shall have a casting vote, to be given at the time of the declaration of the poll.

In case of the number of votes for Mayor being equal, the Council shall, at their first sitting, elect a Chairman, *pro tempore*, who shall have a casting vote in cases of equality, and the Council shall select between the candidates having such equality of votes.

All expenses attendant upon any election under this Act shall be borne by the candidates in equal proportion; such ex-

penses in any Ward shall not exceed the sum of £20.

*Qualification of Voters.*

X. The qualification of voters shall be as follows :

Being a Male British Subject of full age.

Having resided in Vancouver Island or its dependencies, for a space of three calendar months preceding the election at which he tenders his vote.

Being at the time of tendering his vote, rated on the Municipal Assessment Roll of the said City for Freehold or for Leasehold Estate to the amount of £20.

*Disqualification of Voters.*

XI. Being a Bankrupt, Insolvent Debtor, Felon or Outlaw.

Having taken the oath of allegiance, or become the citizen or subject of any Foreign State or Nation, unless one month previously to the election at which he tenders his vote, he shall have sworn allegiance to Her Majesty, Her Heirs and Successors, before the Chief Justice of Vancouver Island.

Provided always, that at the first election of a Mayor and Councillors, the voters shall be the persons at that time registered on the List of Voters for the election of Representatives for the Town of Victoria, and at such election each voter on such list shall have a vote for each Councillor, and one for the Mayor, such votes to be given at one time and place.

Every person tendering his vote at any election of a Mayor or Councillor, shall, before voting, take such of the following oaths as may be required by some other duly qualified voter.

I, A. B., do hereby swear, that I am a British Subject born at (place of birth) and

that I have never taken the oath of allegiance to, or become the citizen of any foreign State or Nation.

Provided always, that any voter called upon to take the oath lastly hereinbefore contained may, if he so choose, in lieu thereof, take the oath next hereinafter contained.

I, A. B., do solemnly swear that I was born at (place of birth) and that I was formerly a British Subject, and that I, on the day of before the Chief Justice of Vancouver Island, took the oath of allegiance to Her Majesty, Her Heirs and Successors, and have not since that day, taken the oath of allegiance to, or become the citizen or subject of any foreign State or Nation.

I, A. B., do solemnly swear that I am the same A. B. who is mentioned in the List of Voters, (or Municipal Assessment Roll, as the case may be,) and that I am now in my own right possessed of, or tenant of (statement of qualification in respect of which I have been entered on the said List of Voters, or Municipal Assessment Roll, as the case may be).

I, A. B., do solemnly swear that I have not received or been promised, or to my knowledge has any other person on my behalf, or for my benefit received or been promised, any money, gift, advantage, place, or consideration for, or for the purpose of influencing the vote which I now tender.

*Oaths of Candidates.*

XII. At the nomination, or at any time before the close of the poll, any duly qualified voter may require the oath first above set forth to be administered to any candidates, and in default of the candidate taking such oaths within twenty-four hours after

the personal receipt of the same, or in default of the candidate taking such oaths within five days, at all events, and likewise the following :

I do solemnly swear that I am possessed of the property qualification required by the Act of Incorporation, and that the said property is situated at \_\_\_\_\_ and is of at least the value of £ \_\_\_\_\_ (either £50 if freehold, or £600 if leasehold.)

If the candidate shall not be present, the Sheriff or Returning Officer shall forthwith cause a notice to be left at the usual place of abode of the candidate, calling upon the said candidate to take the oaths within twenty-four hours from the time the aforesaid notice was left at such place, and in default all votes given for such candidate shall be null and void.

The Sheriff, or Returning Officer, or Poll Clerk, shall have power at elections to administer the Oaths required by this Act.

#### *Poll Books.*

XIII. The Sheriff shall deliver a certified copy of the Poll Books to the Clerk of the Council, within forty-eight hours after the close of the Poll, and shall also, after the expiration of the said forty-eight hours, permit any of the Council to examine the Poll Books.

It shall be the duty of the Clerk of the Council to permit any reasonable inspection of such certified copies of the Poll Books by any duly qualified voter.

Any person may obtain a certified copy of any of the Poll Books from the Sheriff aforesaid, upon payment of one shilling per folio.

The Sheriff shall immediately after the election, or in case of a poll, immediately after the declaration thereof, file a certificate in the Supreme Court of Civil Justice of the result of such election or poll.

#### *Oaths of Officers at Elections.*

XIV. The Sheriff, Returning Officer and Poll Clerk, shall, before entering upon their respective duties, take the oath following, before some Justice of the Peace for Vancouver Island :

I solemnly swear that I will faithfully fulfil the duties of my office without fear or favor, and that I have not received, nor will receive, any bribe to influence my conduct.

#### *Oaths of Mayor and Councillors.*

XV. Every person who shall have presented himself for nomination, and who shall have been elected Mayor or Councillor, must serve, or in default pay a sum of £50, towards the Municipal revenue, such sum to be recoverable with costs summarily before any Justice of the Peace aforesaid, and every Mayor and Councillor shall, within six days after election, and before taking his seat, take the following oath, before the Chief Justice of the Supreme Court of Civil Justice :

I am a British Subject, possessing the requisite property qualification, which is (statement of qualification) and have not, nor will have any interest directly or indirectly in any contract connected with the Corporation.

I have not, by myself, or any other person, knowingly employed any bribery, corruption, or intimidation, to gain any election, and I will faithfully perform the duties of my office, and will not allow any private interest to influence my conduct in public matters.

Every member of the Council shall, before taking his seat at the Council, produce a certificate from the Chief Justice of the Supreme Court, stating that the necessary oaths have been taken by such member.

*Vacancies.*

XVI. In case of the death, bankruptcy, insolvency, resignation, or permanent absence for the space of three consecutive calendar months from the colony, of the Mayor, for the time being, or in case the Mayor shall decline to accept office or neglect to take the necessary oaths, the Councillor who shall at his election have obtained the greatest number of votes, shall preside at the meetings of the Council, and shall have the same powers, duties and privileges, and be subject to the same liabilities and responsibilities which the Mayor would have had, and been subject to, if presiding, until the next day of election.

In case of the death, bankruptcy, insolvency, resignation or permanent absence aforesaid of any one or more of the Councillors, or in case of a Councillor filling such vacancy in the office of Mayor as aforesaid, a new Councillor shall be elected to fill the vacant office until the next election.

XVII. The Mayor or presiding Councillor shall within three days from such vacancy, notify the Sheriff thereof, who shall within six days from the receipt of such notification, fix the day for the nomination and election of such new Councillor, and the nomination and election shall be held in manner aforesaid.

*Validity of Elections.*

XVIII. The validity of all contested elections shall be tried before the Chief Justice, in manner following: Any voter or candidate may present a petition to the Supreme Court, praying that the election of any Mayor or Councillor may be avoided on either of the following grounds—by reason of bribery, intima-

tion, or undue influence; by reason of such Mayor or Councillor not having obtained a majority of the votes of the duly qualified electors; by reason of such Mayor or Councillor not possessing the requisite property qualification, or being under some disqualification as aforesaid.

The petitioner shall in each case give such security for costs as the Court shall direct.

The order of the Chief Justice on the said petition shall be final and conclusive, and may contain all necessary directions for the holding new elections or otherwise as may be requisite.

The Chief Justice may from time to time make rules for regulating the trial of such petitions and the matters and things connected therewith.

The Council shall hold its ordinary meetings openly, and no person shall be excluded except for improper conduct. A special meeting may be open or closed, as in the opinion of the Council, expressed by Resolution in writing, the public interest require.

The Mayor (or in case of equality of votes the Sheriff) shall, within seven days from the day of election, summon the Council to meet on a day not more than fourteen days after the day of election, at some place to be mentioned in such summons.

*Proceedings of Council.*

XIX. All Acts, whatsoever, authorized or required by virtue of this Act, to be done by the Council, and all questions of adjournment, and others that may come before the Council, may, save where otherwise expressed, be done and decided by the majority of the members of the Council, who shall be present at any meeting held in pursuance of this Act, the whole



number of members present at such meeting not being less than four; at such meeting, the Mayor, if present, shall preside, and the Mayor, or in the absence of the Mayor, such Councillor as the members of Council then assembled shall choose to be the Chairman of that meeting, shall have a second or casting vote in all cases of equality of votes; the minutes of the proceedings of all such meetings shall be drawn up and fairly entered into a book, to be kept for that purpose, and shall be signed by the Mayor or Councillor presiding at such meeting, and the said minutes shall be open to the inspection of any person, who may also make copies thereof and extracts therefrom, at all reasonable times, on payment of a fee of one shilling.

Previous to the introduction of any business at any meeting of the Council, a notice in writing of any business proposed to be brought forward by any member, shall be publicly exhibited for twenty-four hours previously to such meeting in some public place to be agreed upon by the Council.

Previous to any meeting of the Council, other than adjourned meetings, a notice of the time and place of such intended meeting shall be given three clear days, at least, before such meeting by fixing a copy of the said notice at the Post Office, and such notice shall be signed by the Mayor who shall have power to call a meeting of the Council as often as he shall think proper.

In case the Mayor shall refuse or neglect to call a meeting within forty-eight hours after a requisition for that purpose, signed by three members of the Council at the least, shall have been presented to him, it shall be lawful for the said three members to call a meeting of the Council by giving such notice as is hereinafter declared in that

behalf, such notice to be signed by the said members, instead of the Mayor, and stating therein the business proposed to be transacted at such meeting, and in every case a summons to attend the Council, specifying the business proposed to be transacted at such meeting, signed by the Mayor or the members, as the case may be, shall be left at the usual places of abode of every member of the Council, or at the premises in respect of which he is placed on the Municipal Assessment Roll, three clear days at least, before such meeting, and no business shall be transacted at such meeting, other than the business which is specified in the notice.

The Council may, out of their own body, from time to time, appoint such and so many Committees, and consisting of such members as they may think fit, for any purposes which in the discretion of the Council, would be better regulated and managed by means of such Committees, but all proceedings of such Committees shall be subject to the approval of the Council.

#### *Power of Council.*

XX. The Council shall have power to make ordinances for any of the following purposes.

1. The prevention and removal of nuisances within the city.
2. The regulation of the traffic within the city.
3. To regulate the maintenance, repair and construction of the highways, foot-paths, public wharves and bridges, situated within the said city.
4. To provide for the inspection of diseased and unwholesome cattle, meats, poultry, fish and vegetables, and to prevent the sale or exposure of the same.
5. To accept, purchase, and hold such

real estate as may be required for corporate purposes, and to erect such buildings thereon as may be requisite for corporate purposes.

The Council shall also have power to pass By-laws for any of the following purposes :

1. To regulate the public market.
2. To regulate and provide for the drainage and sewerage of the said city.
3. To make regulations with regard to the preservation of the said city from fire, and to regulate all matters affecting the liability of the said city to fire.
4. To regulate the public lighting of the said city, and to regulate the public lights in the said city, but no streets shall be lighted with gas if one-half of the resident property-holders in that street object to the same.
5. To establish and maintain land marks in the said city.
6. To establish a general grade in the said city.
7. To regulate the sanitary condition of the said city.
8. To regulate the use of weights and measures in the said city.
9. To appoint an inspector of gas-meters.
10. To regulate the sale, carriage, or storage of gunpowder.
11. To accept, purchase, and hold land for public cemeteries beyond the limits of the municipality, and to lay out, improve, and manage and convey every part of the same.

If the holders of seven-tenths in value of the lots on any street of the City of Victoria shall sign a requisition calling upon the Council to grade, macadamize, pave, drain or otherwise improve the said streets, the said Council shall be empowered to make a rate upon the lots abutting

on such street in order to carry out such improvements, and may apply the rate when collected according to the prayer of such requisition; the Council approving such requisition in such manner as they may appoint by by-laws.

Every Ordinance passed by the Council shall be reconsidered not less than three days after the original passage, and if confirmed, shall come into effect and be binding on all persons after seven days from the publication of the same, in some one or more of the public papers published in the city unless otherwise postponed in such ordinance.

Every Ordinance and By-law shall be passed by the vote or resolution of at least three members of the Council, and at a meeting where at least four members of the Council shall be present.

The By-laws unless disallowed in writing within seven days by the Governor for the time being of Vancouver Island and its dependencies, (or the person for the time being administering the Government) shall be published in manner aforesaid, and shall within seven days from such publication, have the force of law, unless otherwise postponed in such By-law. Provided that the Governor for the time being may, instead of vetoing any By-law, refer the same to the municipal vote, and the said municipal vote shall be taken in manner hereinbefore prescribed for the confirmation or disallowance of a resolution anticipating future revenue of the said municipality.

The penalty by which any By-law or Ordinance may be sought to be enforced, may be stated in the By-law, and if no penalty is therein mentioned, the breach of any By-laws or Ordinances shall be punished in a summary way by a fine not ex-

ceeding £10, or by imprisonment for any term not exceeding three months, either with or without hard labor, at the discretion of any Justice or Justices of the Peace, having jurisdiction within the municipality.

In the event of any By-law or Ordinance being passed wherein no specific penalty is inserted, or in case a specific penalty is inserted, and no means for its recovery specified, any Justice or Justices as aforesaid, may in case of a fine, adjudge that such offender shall pay the same either immediately; or within such period as the said Justice or Justices shall think fit, and in case such sum of money shall not be paid at the time so appointed, the same may be levied by distress or sale of the goods and chattels of the offender, and for want of sufficient distress such offender may be imprisoned as aforesaid at the discretion of such Justice or Justices, with or without hard labor, in the common jail, for any term not exceeding three months, the imprisonment to cease upon payment of the fine and costs.

The Mayor shall be deemed head of the Council, and the head and Chief Executive Officer of the Corporation, and shall, *ex officio*, be a Justice of the Peace, and it shall be his duty to cause the law for the improvement of the city to be duly executed and put in force; to inspect the conduct of all subordinate officers in the government thereof, and as far as may be in his power, to cause all negligence, carelessness, and positive violation of duty, to be prosecuted and punished, and to communicate from time to time to the Council all such information, and recommend all such measures as may tend to the improvement of the finances, health, security, cleanliness and comfort of the city.

The jurisdiction of the Council shall be

confined to the municipality, except where authority beyond the same is expressly given.

The Council may make regulations not specially provided for in this Act, and not contrary to the provisions hereof, and not contrary to law, for governing the proceedings of the Council and the conduct of its members.

The Council may, by resolution passed in manner hereinafter provided, devote any portion of the municipal revenue not exceeding in the course of the year one-third part, towards defraying the ordinary expenditure of the Corporation in the conduct of its general business, and by a resolution passed as aforesaid, may devote the unappropriated portion of the said revenue, and any accumulations of past revenue, to any of the purposes to which the Council is authorised to pass By-laws or Ordinances, and also to any of the purposes following :

The supply of the said city with gas and water.

The improvement of the approaches to the city, including Bridges across Victoria Arm from Point Ellis.

The maintenance of Hospitals.

XXI. A copy of every By-law shall be transmitted to the Governor by the Clerk of the Council within forty-eight hours of the final passage of the same, signed by the said Clerk, and countersigned by the Mayor, or presiding Councillor.

XXII. A resolution devoting any portion of the municipal funds to any of the purposes aforesaid, shall be passed by the vote of at least four members present at a meeting where at least five members shall be present, such resolution shall be afterwards confirmed by a like vote at some

meeting summoned after the lapse of seven days from, and before the expiry of one calendar month at least from the original meeting, and summoned also for the specific purpose of confirming the resolution.

Provided always, that the Council, save as hereinafter mentioned, shall have no power to incur any personal liability, or any liability, beyond the municipal revenue for the current year.

Provided always, that the Council may, by resolution passed as aforesaid, if confirmed by the electoral vote hereinafter mentioned, bind one-third, or any less part of the municipal revenue for the space of three years from the date of the final passage of a resolution in that behalf, for any of the purposes following :

The improvement of the highways, foot-paths, bridges, and public wharves, within the said City, and the improvement of the approaches thereto aforesaid.

The supply of the City with gas or water.

**XXIII.** Every resolution anticipating any portion of the Municipal revenue, shall receive the confirmation of the Municipal electors in manner following :

**A.** The Council shall, by public notice, fix the day, hour, and place for taking the votes of the electors thereon, at every place in the City at which the election of the members of the Council is held, and shall also name a sufficient number of Returning Officers to take the votes at every such place, and such day shall not be less than seven nor more than twenty-one days after the second passage, by the Council, of the proposed resolution.

**B.** Every voter shall have a vote either confirming or negating the said resolution in each Ward where he has a vote for Councillor.

**C.** The Council shall, for at least three clear days before the voting day, publish a copy of such proposed resolution, in some newspaper published within the municipality, and also post up a copy thereof in at least one public place within each Ward.

**D.** Appended to each copy so published and posted shall be a notice, signed by the Clerk of the Council to the effect, following :

Take notice, that the above is a true copy of the proposed resolution, upon which the vote of the Municipality will be taken at (place, day, and hour of the day).

**E.** The poll shall be taken on the question, AYE, or NO, whether the resolution shall be confirmed, and the poll shall be kept open on the day named, between 10 o'clock, A.M., and 4 o'clock, P.M.

**F.** Every Returning Officer shall, immediately after the closing of the polls, return his poll book to the clerk of the Council, sealed and verified, and a solemn declaration annexed that the poll book contains a true statement of the votes.

**G.** The Clerk of the Council shall unseal the poll book at the next sitting, and in the presence of the Council add up the number of votes for and against the resolution, and shall certify to the Council under his hand whether the majority have approved or disapproved of the proposed resolution, and shall keep the poll books among the records of his office.

In case any proposed resolution shall be negated by the votes of the electors, no such resolution, or one of a similar nature, shall be brought forward or considered, during the same municipal year.

The poll books shall be open to inspection on payment of a fee of one shilling to the Clerk of the Council.

No more than one-third of the Municipal revenue shall be made liable or devoted prospectively for any of the purposes aforesaid, at the same time, provided that no loan affected by the Council on the prospective revenue aforesaid, shall be effected at a higher rate of interest than 12 per cent. per annum at par, and that if the same be effected directly or indirectly at a higher rate of interest than 12 per cent. the principal moneys and interests shall not be recoverable.

XXIV. The Council may, subject as hereinafter contained, by a By-law passed and confirmed as aforesaid, direct in what manner the funds required for the Municipal purposes shall be raised.

Provided, that not more than one-half of the proposed annual revenue shall be raised by an assessment on freehold and leasehold property within the said City.

Provided always, that the rate of assessment shall not exceed 1 per cent. upon the Government assessment of the said property under the 1 per cent. tax act, or any assessment act to be passed in lieu thereof.

Provided, also, that no part of the said annual revenue shall be raised by any tax in the nature of a tax upon personal estate, upon ships, shipping or passengers.

XXV. The Council shall be capable of holding real estate, and have entire control of all corporate property.

An Assessment Roll shall, between the first day of January and the first day of June, in each year, be prepared by, or on behalf of, the Council, and the freehold and leasehold property situate within the said City, shall be therein specified together with the names of the persons occupying the same, and the names of the persons owning the same, and together

also with such other matters and things as may be required by any by-law passed and confirmed, as aforesaid, in that behalf.

*To keep Highways in order.*

XXVI. The Council shall provide means for keeping Highways, Roads, Paths and Bridges, within the corporate limits, in an efficient state of repair.

*Appointment of Officers.*

XXVII. The Council may appoint such officers, not being a Magistrate or Police Officer, as may be absolutely required for the conduct of the corporate business, and may pay the same out of the Corporate Revenue set apart for the ordinary expenditure of the Corporation.

Provided that it shall be incumbent upon the Council to appoint a Clerk to the Council.

All officers shall, however, give security in such manner as the Council shall determine for the due performance of their services.

*Seal.*

XXVIII. The City of Victoria shall have a Corporate Seal, and the Council shall enter into all contracts under the same Seal, which shall be affixed on all contracts by virtue of an order of the Council.

*Power of Lease.*

XXIX. The Council may absolutely lease any of the corporate property for any term not exceeding fourteen years, receiving thereupon the best rent that can reasonably be obtained, to be paid in advance, and without taking any fine or premium, or other money in the nature of a fine or forgift, provided always, that

every lease made by the Corporation shall be executed under the Corporate Seal, and there shall be therein contained a proviso for re-entry on non-payment of the rent, or non-observance, or non-performance of the covenants and provisos therein contained.

XXX. This Act may be cited as "The Victoria Incorporation Act, 1862."

Passed the House of Assembly 9th June, 1862.  
Council amendments agreed to 31st July, 1862.

E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council 22d July, 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 2d day of August, A.D. 1862.

JAMES DOUGLAS,  
Governor.

## SCHEDULE.

1st PART.—All that Tract of Land enclosed within the Red, Black and Dotted Lines drawn on the Plan marked A.

2d PART.—All that Tract of Land enclosed within the Red Lines aforesaid.

3d PART.—All that Tract of Land enclosed within the Black Lines aforesaid.

4th PART.—All that Tract of Land enclosed within the Dotted Lines aforesaid.



# AN ACT

## To amend the Scale of Fees charged for the Entrance and Clearance of Vessels, Licences to Scows, Boats and other Craft, and Dues for Landing Permits, as well as other matters relating to the same, in the Port of Victoria, including Esquimalt.

WHEREAS, it is expedient to repeal the "Victoria and Esquimalt Harbor Dues Act, 1860," and to amend the Scale of Fees charged for the Entrance and Clearance of Vessels into the Port of Victoria and Esquimalt; for the Licences of Scows, Boats and other Craft plying in the said Port, and for Landing Permits;

Be it enacted by the Governor on her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows:

*Victoria and Esquimalt Harbor Dues Act repealed.*

I. The Victoria and Esquimalt Harbor Dues Act is hereby repealed.

*Duties mentioned in the Schedule A to be collected.*

II. That from and after the passage of

this Act, there shall be raised, levied, collected and paid to the Harbor Master of Victoria, to and for the use of Her Majesty, Her Heirs and Successors, in lieu of the charges heretofore made in respect of the charges aforesaid, the Scale of Fees upon Vessels entering or departing from the Harbor of Victoria or Esquimalt, in Schedule A. to this Act annexed.

*Steamers carrying Mails without Subsidy to be exempt.*

III. The Governor may exempt from the payment of Harbor Dues, Steamers carrying the Mails under agreement without remuneration from Government.

*Coasters to be liable to Licences in Schedule B.*

IV. All Vessels, whilst employed exclusively in the coasting or carrying trade

between places within this Colony and either of the aforesaid Harbors, shall be exempt from the charges for Entrance and Clearance aforesaid ; but the Masters of such Vessels shall report themselves to the Harbor Master of Victoria Harbor whenever such Vessels shall enter or depart from either of the said Harbors ; and such Vessels as last aforesaid shall be liable to the Licences mentioned in Schedule B hereunto annexed.

*Scows and Boats to be Licenced according to Schedule C.*

V. There shall be charged upon Scows and other craft (not being pleasure boats) employed in freighting, lading or unlading ships, or carrying goods or passengers in or between the Harbors of Victoria and Esquimalt, or *vice versa*, the Licences mentioned in Schedule C. to this Act annexed.

*Penalty for Plying without a Licence to be confiscation.*

VI. Any Vessel or craft carrying goods or passengers as aforesaid, or being employed in the coasting trade as aforesaid without having paid the necessary Licence or the Fees aforesaid, shall be liable to confiscation.

*Permit for landing Foreign Goods.*

VII. No goods other than the produce of the Colony, and passengers' luggage, shall be landed from any vessel in Victoria or Esquimalt until the same and the value thereof shall have been first reported to the Harbour Master of Victoria, and the permit to land the same shall have been received from the said Harbour Master or his Deputy or Deputies ; and there shall be charged and paid for such landing permit the sum mentioned in Schedule D

to this Act annexed : Provided that all permits on goods *bona fide* manifested in transitu for Ports beyond the limits of this Colony shall be charged four shillings.

*Declaration by persons taking a permit for goods in transitu.*

VIII. Provided always, that any person taking a permit on goods manifested in transitu, hereinafter called a permit in transitu, shall sign and swear before the Harbour Master, a declaration in the form following :

I, A. B., do hereby declare that the goods intended to be landed under permit, No.—are *bona fide* in transitu, and I agree on behalf of all persons interested in the said goods to pay to the Treasurer of Vancouver Island the sum of £100 in the event of bulk being broken of the goods therein mentioned previously to their leaving this Colony.

Sworn before me this        day of  
18 .        (Signed)

*Harbour Master.*

*Harbour Master may administer the oath.*

IX. The Harbour Master may administer an oath of the truth of his declaration to any person desirous to swear to the same.

*Penalty for breaking bulk, £100.*

X. The Treasurer may recover from any person interested in any goods landed under a permit in transitu, the sum of £100 in the event of bulk being broken in contravention of the said declaration, whether such person be authorized to make such declaration or not.

*Penalty on landing without a permit. Confiscated.*

XI. Any person landing any goods, save as aforesaid, shall be liable to a fine



of not more than Fifty Pounds, (£50) to be recovered by a summary process before any Justice of the Peace ; and in default of payment, to imprisonment, with or without hard labor, for a period not exceeding one month ; and the goods so landed may be confiscated to the use of Her Majesty, Her Heirs and Successors.

*Short Title.*

XII. This Act may be cited as "The Victoria and Esquimalt Harbour Dues Act, 1862."

Passed the House of Assembly, 7th August, 1862.  
Council amendments agreed to, 26th August, 1862.

E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council, 15th day of August, A. D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent, this 2d day of September, A. D. 1862.

JAMES DOUGLAS,  
Governor.

**SCHEDULE A.**

Fees for entrance and clearance for vessels entering and clearing the Ports of Victoria and Esquimalt.

All vessels under 15 tons burden.	£0	4	0
“ of 15 and not exceeding 30 tons burden	0	6	0
“ of 30 and not exceeding 50 tons burden	0	8	0
“ of 50 and not exceeding 100 tons burden	0	12	0
“ of 100 and not exceeding 200 tons burden	1	0	0

All vessels of 200 and not exceeding 300 tons burden	£1	5	0
“ of 300 and not exceeding 400 tons burden	1	13	0
“ of 400 and not exceeding 500 tons burden	2	1	0
“ of 500 and not exceeding 600 tons burden	3	2	0
And an extra £1 on every 100 tons above 600 tons.			

**SCHEDULE B.**

Half-yearly Licenses for Coasters under 10 tons	£1	0	0
Of 10 tons and not exceeding 30 tons burden	2	0	0
Of 30 tons and not exceeding 50 tons burden	3	0	0
Of 50 tons and upwards	4	0	0

**SCHEDULE C.**

Boat under 16 feet in length, per quarter	£1	0	0
Boat of 16 feet and not exceeding 10 tons burden, per quarter	1	10	0
Lighters and Scows under 10 tons burden, per quarter	2	0	0
Lighters and Scows of, and not exceeding 10 tons, per quarter	2	5	0
For every additional ton	0	1	0

**SCHEDULE D.**

For each invoice under £100 in value	£0	4	0
For each invoice of £100 and not exceeding £250	0	6	0
For each invoice of £250 and not exceeding £500	0	8	0
For each invoice of £500 and not exceeding £1000	0	12	0
For every additional £100 in value	0	2	0



# AN ACT

## To authorize the Governor of Vancouver Island to borrow the sum of Forty Thousand Pounds on the security of the General Revenue of the said Colony.

**W**HEREAS, it is expedient to raise by Loan secured on the General Revenue of the said Colony, funds for the construction of Roads and other communications within the said Colony, and for the improvement of Victoria Harbour, and to make provisions for the redemption of such Loan.

And whereas, by the "Victoria Harbour Act, 1860," all monies and dues paid and levied in pursuance of "The Victoria and Esquimalt Harbour Dues Act, 1860," were directed to be paid into a separate account in the Treasury as a security for certain loans therein mentioned.

And whereas, since the passage of the said "Victoria Harbour Act, 1860," the loans effected by virtue of the said Act have been wholly paid off and redeemed.

Be it therefore enacted by His Excellency the Governor, on Her Majesty's behalf, by and with the consent of the Legislative Council and Assembly, as follows :

*Repeal of the Victoria Harbour Act.*

I. The "Victoria Harbour Act, 1860," is hereby repealed.

*The Governor may issue Debentures to the amount of £40,000.*

II. It shall be lawful for the Governor for the time being of the said Colony from time to time, or at any time hereafter, to cause to be made out and issued, Debentures secured upon the General Revenue of the said Colony, for such sum or sums of money not exceeding Forty Thousand Pounds (£40,000) Sterling in the whole, as may be required for the purpose of constructing roads and other communications within the interior of the said Colony, and for the purpose of improving Victoria Harbour.

III. All Debentures made out and issued under this Act shall bear interest at the rate of Six Pounds (£6) Sterling per

centum per annum, payable half-yearly, and shall be redeemable and redeemed at the expiration of twenty years from the date hereof.

IV. Every Debenture shall be for any sum or sums not less than One Hundred Pounds (£100) Sterling, which the said Governor shall determine, and which, together with the interest thereon, shall be payable in London at the offices of the Agents General for the time being for Crown Colonies, or at the Treasury of the said Colony.

V. The bearer of any of the said Debentures may alter the place of payment of the principal and interest to either the Treasury at Victoria, or the office in London of the Agents General for Crown Colonies, by giving six months previous notice in writing, terminating on the first day of January, or the first day of July, at the previous place of payment (the Treasury at Victoria, or office in London of the Agents General aforesaid, as the case may be) of his will to make such alteration, and causing the officer acting as Treasurer for the time being, or the said Agents General in London (who is and are hereby required so to do) to endorse on such Debenture a memorandum of the alteration.

VI. All Debentures made out and issued under this Act shall be entered in a Register to be called the "Debenture Register;" one copy thereof shall be kept by the Agents General at their offices in London, and another copy thereof by the Auditor of the said Colony; and such Debentures shall be deemed a primary charge upon all the Revenues of the said Colony from whatever source arising, and all interest thereon and the principal when due, shall

be paid to the Treasurer of the said Colony out of such Revenues under Warrant to be issued by the said Governor in priority of all demands thereon, except the charge and expenses of the collection thereof.

VII. The said Debentures shall be signed by the Agents General for Crown Colonies for and on behalf of the Colonial Government, and shall be in the form set forth in the Schedule to this Act marked **A**; and shall bear date on the day of the issuing thereof, and shall be numbered arithmetically, beginning with number One and so proceeding in arithmetical progression ascending, wherein the common excess or difference shall be One.

VIII. Interest Coupons in the form marked **B** in the said Schedule shall be attached to each of the said Debentures and shall be signed by the Agents General on behalf of the Government.

IX. The said Debentures shall be made payable to the bearers thereof, and shall pass by delivery only, and without any assignment or endorsement, and the holder or bearer of every such Debenture for the time being shall have the same rights and remedies in respect of the same as if he were expressly named therein.

X. It shall be lawful for the said Governor to authorize the whole or any portion of the said Debentures to be negotiated, contracted for or sold by the Treasurer or the Agents General for Crown Colonies, and at such times, in such sums and in such manner, as the said Governor may direct.

XI. All monies issued under this Act shall be paid in such manner as the said

Governor shall prescribe to the Treasurer of Vancouver Island, and shall by him be placed to the credit of an account to be called "The Vancouver Island Road and Harbour Loan Account," to be applied for the purpose of surveying and constructing Roads and other communications within the said Colony, and in or towards the improvement of the Harbour of Victoria, and in or towards the repayment of any sums which may be hereafter borrowed for and expended in such surveying, construction and improvements, and to no other purposes whatsoever, and the said monies shall be accounted for in the same manner as if they formed part of the current revenue of the said Colony.

XII. The proportion of the monies to be devoted to the improvement of the Victoria Harbour shall be as eighteen to twenty-two.

XIII. The said Governor shall provide for the redemption of the said Debentures by authorizing and directing the Treasurer of the said Colony to appropriate half-yearly in every year out of the General Revenue of the Colony such a sum as shall be equal to five per cent. on the total of the principal sums for which Debentures shall from time to time have been issued and be for the time being outstanding; and after having paid the half-year's interest thereupon, shall invest or cause to be invested the residue thereof as a sinking fund for the final extinction of the debt, and shall invest or cause to be invested the dividends, interest, or annual produce arising from such investment, so that the same may accumulate by way of compound interest. All sums paid to the account of the sinking fund and all interest or dividends arising therefrom shall be invested

in the name of Trustees in the purchase of Imperial or Colonial Government securities, the nature of such securities, and the selection of such Trustees shall be left to Her Majesty's Principal Secretary of State for the Colonies.

XIV. Provided, nevertheless, that it shall be lawful for the said Governor from time to time to authorize the Agents General for the time being for Crown Colonies, or the Treasurer of the said Colony for the time being, to repurchase the said Debentures to the amount of such monies as the said Governor may by any Proclamation hereafter to be issued and passed by him, out of the current Revenue of the Colony appropriate for that purpose, and for the Trustees of the said sinking fund to make use thereof for the purpose of withdrawing Debentures from the market by purchase; and all Debentures so repurchased shall be forthwith cancelled and destroyed; and no re-issue of Debentures shall be made in consequence of such purchase and destruction.

XV. From and after the date of any and every such repurchase of Debentures as last aforesaid, the amount then payable to the sinking fund shall from time to time be reduced in proportion to the reduced amount of Debentures for the time being remaining unredeemed, and any monies remaining in the said Sinking Fund after the Loan hereby sanctioned is fully paid and satisfied, shall be forthwith paid over to the Treasurer and accounted for as General Revenue.

XVI. It shall be lawful for any Trustees, Executors, Administrators or Guardians, having the disposition of any trust monies to purchase any such Debentures

by and out of any such trust monies, and every such purchase shall be deemed a due investment of such trust monies.

XVII. It shall not be necessary for the said Colonial Treasurer or any other person acting for or on behalf of the Government of the said Colony, to notice or regard or enquire into the trusts to which any such Debentures shall be liable, or the rights or authority of any person being the actual holder or bearer of such Debentures as aforesaid. But payment to the actual holder or bearer thereof or his lawful agent shall be deemed in all cases due payment unless otherwise specially agreed in writing by and under the hand of the Treasurer, Agents General or other person acting as aforesaid, for the time being entrusted with the sale of such Debentures.

XVIII. Any person who shall forge or alter, or shall offer, utter or dispose of, knowing the same to be forged or altered, any Debenture purporting to be made out and issued under this Act, shall be guilty of Felony, and being thereof convicted shall be imprisoned for any period not exceeding Three Years with or without hard labor, at the discretion of the Judge before whom any such person shall be tried and convicted.

*Short Title.*

XIX. This Act may be cited as "The Vancouver Island Road and Harbour Loan Act, 1862."

Passed the House of Assembly, 12th August, 1862.  
Council amendments agreed to, 2d September, 1862

E BOWERS DOGGETT,  
Clerk of the House.

Passed the Council, 5th September, 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent, this 6th day of September,  
A. D. 1862.

JAMES DOUGLAS,  
Governor.

SCHEDULE.



FORM A.

VANCOUVER ISLAND.

GOVERNMENT DEBENTURE.

"Vancouver Island Road and Harbour  
Loan Act, 1862." £40,000.

No. ————— £100 0 0

For One Hundred Pounds advanced to the Government of Vancouver Island, the holder of this Debenture is entitled to receive interest at the rate of Six per centum per annum in half-yearly payments, payable at \_\_\_\_\_ on the \_\_\_\_\_ and \_\_\_\_\_ in each year.

The said sum of One Hundred Pounds Sterling with the interest thereon is charged upon and made payable out of the General Revenue of the Colony of Vancouver Island, as a first charge thereon, under the terms of the "Vancouver Island Road and Harbour Loan Act, 1862," and the principal will be repaid \_\_\_\_\_ at \_\_\_\_\_ at the expiration of \_\_\_\_\_ Twenty years from \_\_\_\_\_

Signed on behalf of the Government of Vancouver Island, and in accordance with the provisions of the Act above cited.

} Agents General for  
Crown Colonies.

Registered

N.B.—The holder or bearer of this Debenture may alter the place of payment of principal and interest to the Treasury in Victoria, or the offices of the Agents General for Crown Colonies in London, by giving Six months' previous notice in writing, terminating on the 1st day of January, or the 1st day of July, at the previous place of payment (the Treasury at Victoria, or the offices of the Agents General for Crown Colonies in London, as the case may be) of his wish to make such alteration, and causing the officer

acting as Treasurer in Victoria, Vancouver Island, or the said Agents General for Crown Colonies in London, as the case may be, to endorse on this Debenture a memorandum of such alteration.

on Debenture No. payable at (the office of the Agents General for Crown Colonies, London, or at the Treasury, Victoria, as the case may be).

£ .....

.....

*Agents General.*

**FORM B.**

**VANCOUVER ISLAND.**

*“ Vancouver Island Road and Harbour Loan Act, 1862.”*

**No.**

Half-year's interest due                      day of



# AN ACT

## To enable the Governor of Vancouver Island to borrow the sum of Fifteen Thousand Pounds upon the security of the General Revenue of the Colony.

**W**HEREAS, by the "Vancouver Island Road and Harbour Loan Act, 1862," the Governor is authorized to borrow the sum of Forty Thousand Pounds upon the security of the General Revenue of the Colony, and out of the monies so borrowed to repay any monies previously borrowed and expended in the construction and surveying of roads and communications within the Colony, and the improvement of the Harbour of Victoria.

And whereas, the rate of interest payable in respect of monies borrowed within this Colony is of a very high character, and it is intended to raise the said sum of Forty Thousand Pounds in England ;

And whereas it is expedient to execute certain public Works with rapidity ;

And whereas it is expedient to borrow such sums as may be required for the purposes aforesaid, not exceeding in the whole the sum of Fifteen Thousand Pounds, to be

repaid out of the said sum of Forty Thousand Pounds, and in the meantime to be secured on the general Revenue of the Colony.

Be it therefore enacted by His Excellency the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :

It shall and may be lawful for the Governor for the time being of Vancouver Island and its Dependencies, by Warrant under his hand and seal, to authorize the Treasurer for the time being to raise any sum of money not exceeding in the whole the sum of Fifteen Thousand Pounds (£15,000,) upon the security of the general Revenue of the said Colony, by the issuance of Debentures of Twenty Pounds (£20) each at least, each payable within such space of time, as may be determined by the Governor, not exceeding a period

of one year from the date of the passage of this Act, and bearing interest after a rate not exceeding fifteen per centum per annum.

Such Debentures shall be in form marked **A** in the Schedule hereunto annexed, and shall bear date on the day of the issuing thereof, and shall not be issued at a discount.

All Debentures made out and issued under this Act shall be entered in a Register to be called the "Temporary Debenture Register," and kept by the Auditor of the said Colony; and the principal and interest thereby made payable shall be deemed a primary charge upon the general Revenue of the said Colony from whatever source; and all interest thereon, and the principal when due, shall be paid by the Treasurer out of such Revenue under Warrant to be issued by the said Governor, in priority of all demands thereon, except the charges and expenses of the collection thereof.

The said Debentures shall be made payable to the bearers thereof, and shall pass by delivery and without any assignment or endorsement, and the bearer of every such Debenture shall have the same rights and remedies as if he were expressly named thereon.

The interest upon the said Debentures shall be payable at the Treasury, Victoria, every three months.

The said Debentures shall be redeemable at par at any time after the publication of thirty days' notice to that effect by the Treasurer in any of the public papers circulating in the Colony.

From and after the expiration of the said thirty days, all Debentures not handed into the Treasury for redemption shall cease to bear interest.

The Governor shall provide for the redemption of the said Debentures out of the sum borrowed on the "Vancouver Island Road and Harbour Loan Act, 1862."

*Short Title.*

This Act may be cited as "The Vancouver Island Temporary Debenture Loan Act, 1862."

Passed the House of Assembly, 12th August, 1862.  
Council amendments agreed to, 2d September, 1862.  
E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council, 5th September, 1862.  
JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent, this 6th day of September,  
A. D. 1862.

**JAMES DOUGLAS,**  
Governor.

**SCHEDULE.**

**FORM A.**

Under the authority of the "Vancouver Island Temporary Debenture Loan Act, 1862."

This Debenture entitles the bearer to Pounds Sterling, on the day of 186, which with interest after the rate of per centum per mensem, is hereby secured on the general Revenue of the Colony of Vancouver Island for the current year.

Dated the day of 186.  
(Signed) .....  
Treasurer.

Entered at the Audit Office in the Temporary Debenture Register.  
(Signed) .....  
Auditor.





# AN ACT

## To amend an Act for the preservation of Game.

**W**HEREAS, in an Act entitled "An Act for the preservation of Game," passed on the 20th day of April, A. D. 1859. provisions are contained for the preservation of certain Birds and Animals of Game ;

And whereas, it is expedient to include other Birds in the said provisions, and otherwise to amend the said Act ;

And whereas, it is expedient to protect smaller Birds which subsist principally on insects ;

Be it therefore enacted by the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and House of Assembly of the Colony of Vancouver Island and its Dependencies, as follows :

*Unlawful to take or destroy Small Birds subsisting on insects. Penalty.*

I. That from and after the passage of this Act it shall be unlawful for any person to take or destroy in any manner, or buy or sell, or offer or exhibit for sale, any Thrush, Lark or Robin, or any Bird known by any of these names, or any Birds

which subsist principally on noxious insects ; or any egg of either of such Birds, from the First day of February to the First day of September in any year. And every person so offending shall be liable to a penalty not exceeding Ten Pounds, (£10) to be recovered in a summary manner before any Justice of the Peace.

*No Nets or other engines of a like character to be used in the Lakes of Victoria Arm.*

II. That from and after the passage of this Act, no person shall use or employ any Net, Seine, Drag-net, or other engine of a like description for the purpose of taking or capturing Fish in Victoria Arm above Point Ellice, or in any Lake, Pond, or standing water in this Colony, under a penalty not exceeding Fifty Pounds, (£50) to be recovered as aforesaid.

*Taking or destroying Birds or Animals specified, to be liable to same penalties as for buying or selling.*

III. Any person who shall take or destroy in any manner, in the Districts of Victoria, Lake, North Saanich, South

Saanich, Esquimalt or Metchosin, any of the Birds or Animals of Game mentioned in the aforesaid Act, between the periods therein set forth, shall be liable to the same penalties as if he had bought or sold the same contrary to the provisions thereof, and shall be deemed to be guilty of an offence against the said Act, and punished accordingly.

*Two Acts to be combined ; and Short Title.*

IV. The said Act for the preservation of Game and this Act, may be quoted as one Act, and entitled for all purposes "The Act for the preservation of Game."

Passed the Council the 30th day of June, A. D. 1862. Amendments of the House of Assembly agreed to the 3rd day of September, A. D. 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Passed the House of Assembly the 14th day of August, A. D. 1862.

E. BOWERS DOGGERT,  
Clerk of the House.

Received my assent this 5th day of September, A. D. 1862.

JAMES DOUGLAS,  
Governor.

# VANCOUVER ISLAND.



## PROCLAMATION.

**By His Excellency, JAMES DOUGLAS, Companion of the Most Honorable Order of the Bath, Governor and Commander-in-Chief of Vancouver Island and its Dependencies, Vice-Admiral of the same, &c., &c.**

**W**HEREAS, I have been authorized by Her Majesty's Government to take such steps as may tend to promote the settlement of country land in the Colony of Vancouver Island and its Dependencies, and to reduce the upset price of country land to four shillings and two-pence per acre;

And whereas, it is expedient to make public the methods by which land may be acquired in the said Colony;

Be it therefore known unto all men:

*Repeal of previous Land Proclamations.*

I. The Proclamations issued by me under the public seal of the said Colony, dated respectively the 19th day of February, 1861, the 21st day of March, 1861, and the 9th day of May, 1861, save so far as the rights and interests of any person who

may have sought to acquire land thereunder are concerned, are hereby repealed.

*Land to be sold at Auction, if requisite.*

II. Whenever the public requirements are such as to render the sale of any tract of land expedient, whether a town site, suburban land, or otherwise, the same land will be put up or sold at public auction, at such upset price as may be from time to time determined on—not, however, in any case exceeding the sum of 4s. 2d per acre for country land, and in the event of any land not fetching the upset price, it shall be lawful for the Surveyor General to sell the same by private contract at such upset price.

*Forfeited Lands to be sold at Auction.*

III. All country land forfeited for non-payment of instalments shall from time to

time be put up for sale at public auction, at an upset price of 4s. 2d. per acre.

*Power to British Subjects and Aliens who take the oath of allegiance to acquire land.*

IV. That from and after the date hereof, British subjects, and aliens who shall take the oath of allegiance to Her Majesty and Her Successors, above the age of 18, may acquire the right to hold and purchase in fee simple, unsold, unoccupied, and unreserved Crown Lands in Vancouver Island and its Dependencies, not being the site of an existent or proposed town, or auriferous land available for mining purposes, or an Indian Reserve or Settlement, under the following conditions :

*The person desirous of acquiring land, to enter into possession and record his claim. Quantities to be recorded.*

V. The person desiring to acquire any particular plot of land of the character aforesaid, shall enter into possession and shall record his claim with the Surveyor General, paying to him the sum of eight shillings for recording such claim.

The person recording may record his claim to the following quantities of land :

If a single man, 100 acres ;

If a married man whose wife is resident in the Colony, 150 acres ;

If the parent of children resident in the Colony, and under the age of 18, ten additional acres for each such child.

*Power of acquiring additional land adjacent to the pre-empted claim on payment of an instalment.*

VI. Any person in possession of land so recorded as aforesaid, may acquire the right to hold and purchase any further tract of unoccupied land aforesaid, over and above the quantities aforesaid, and

contiguous thereto, upon payment to the Surveyor General of the sum of 2s. 1d. per acre for the same, as and by way of instalment of the purchase money, to be ultimately paid to the Government upon the survey of the same land.

*Possession and Record necessary, as in case of pure pre-emption.*

VII. Any person so paying such deposit shall enter into possession and record his claim to such last mentioned tract of land in manner hereinbefore prescribed.

*Mode of Record.*

VIII. The claimant shall in all cases give the best possible description of the land to the Surveyor-General, together with a rough plan thereof, and identify the plot in question by placing at the corners of the land four posts, and by stating in his description any other land marks of a noticeable character.

*Shape of land claimed.*

IX. Every piece of land sought to be acquired under the provisions of this Proclamation, if in a surveyed district, shall be selected according to the lines of the survey, and if in an unsurveyed district, such piece of land shall (save as herein-after mentioned with respect to lands abutting on roads, rivers, lakes, or the sea shore, or bounded by natural boundaries) be of a rectangular shape, and the shortest line thereof shall be at least two-thirds the length of the longest line.

*Frontage of claims on roads, rivers, &c.*

X. Wherever the piece of land sought to be acquired in an unsurveyed district abuts upon a road or highway, river or sea-shore, the frontage on such road or

highway, river or sea-shore, shall not exceed 1320 feet in length. sea-shore as nearly as may be at right angles to the frontage.

*Natural boundaries may be taken.*

XI. Where the land sought to be acquired in an unsurveyed district is in whole or in part bounded by mountains, rocks, lakes, swamps, roads, highways or the margin of a river, or by other natural boundaries, then such natural boundaries may be adopted as the boundaries of the land sought to be acquired; and in such case it shall be sufficient for the claimant to show to the satisfaction of the Surveyor-General that the said form conforms as nearly as circumstances permit to the provisions of this Proclamation.

*Irregular lines of other vicinus may be taken.*

XII. If the land sought to be acquired be bounded by a claim the line of such claim may be adopted by the person so seeking to acquire, notwithstanding any irregularity in such line which has been occasioned by the adoption of a natural boundary or other cause by the claimant of the adjacent claim.

*Piece of land enclosed between two claims may be taken, of whatever proportions.*

XIII. Where a piece of land is partially or entirely enclosed between two or more claims, the claimant may acquire such enclosed piece, notwithstanding any irregularity of form, or disproportion in length of any of the sides.

*Direction of boundaries.*

XVI. The boundaries shall run as nearly as possible by the cardinal points of the compass, or if the claim be in an unsurveyed district and front on a road, lake, river or sea-shore, the boundaries shall run back from such road, lake, river or

*The Governor may grant leases of the Inferior Minerals notwithstanding any pre-emption.*

XV. Until the conveyance of the land in respect of which a claim is recorded, it shall be lawful for the Governor of Vancouver Island and its Dependencies, for the time being, to grant leases of all or any minerals lying under the same for any term of years, and with such rights of entry, and such powers of raising and working metals and metallic substances, and such privileges of using the surface ground for the necessary mining operations as may be deemed necessary by the said Governor.

*Compensation to be made to the occupant.*

XVI. Provided that if any lessee enter and work any minerals upon or under any land previously pre-empted, or in respect of which any instalment has been paid, the pre-emptor or payer of the instalment shall be entitled to full compensation from such lessee for the surface land occupied, the diminution in value occasioned by such right of entry, and the damage sustained by means of such raising, mining and working of the minerals aforesaid, such damage to be ascertained as a question of deterioration to the land in question in an agricultural point of view only.

*Power to Purchase in Surveyed Districts.*

XVII. Where the land is situate in a surveyed District the claimant who has entered upon the said land and recorded his claim as aforesaid, his heirs or devisees shall be entitled, after two years permanent occupation, or after the issuance of a certificate of improvement (whichever shall first happen) to purchase the land so

acquired, or in respect of which such deposit shall have been paid as aforesaid at such rate as may for the time be fixed by the Government of Vancouver Island and its Dependencies, not exceeding 4s. 2d. per acre.

*Person in Possession may purchase at the rate of 4s. 2d per Acre when the Land is Surveyed.*

XVIII. When the Government survey shall extend to the land claimed, the claimant who has entered into possession of and recorded his claim as aforesaid, or his heirs or devisees, or in the case of the grant of a certificate of improvement hereinafter mentioned, the assigns of such claimant shall, if he or they shall have been in continuous occupation of the same land from the date of the record aforesaid, be entitled (subject to any such mineral leases as aforesaid) to purchase the land so acquired or in respect of which such deposit shall have been paid as aforesaid at such rate as may for the time being be fixed by the Government of Vancouver Island and its Dependencies, not exceeding the sum of 4s. 2d. per acre.

*Power to Surveyor-General to issue a Certificate of Improvement.*

XIX. When the claimant, his heirs or devisees shall prove to the Surveyor-General by the evidence of himself and of third parties, that he or they has or have continued in permanent occupation of the claim from the date of record and has or have made permanent improvements thereon to the value of 10s. per acre, the said Surveyor-General shall grant to the said claimant, his heirs or devisees, a certificate of improvement in the form marked A in the Schedule hereto.

*Power to Sell, Mortgage, or Lease given to occupant who has obtained a Certificate of Improvement.*

XX. Upon the grant of the certificate

of improvement aforesaid, the person to whom the same is issued may, subject to any unpaid instalment and to the terms of occupation under which the same land was originally acquired, sell, mortgage or lease the land in respect of which such certificate has been issued, but no interest in any plot of land acquired in either of the methods aforesaid shall, before payment of the purchase money, be capable of passing to a purchaser unless the vendor shall have obtained such certificate of improvement as aforesaid.

*Time of Payment of the Purchase Money.*

XXI. The purchase money, except as otherwise provided in the case of a person desirous of acquiring a contiguous portion of land, shall be payable for land acquired in manner aforesaid by instalments at the rate of 1s. per acre, such instalments to be paid once in every year until the purchase money is paid in full, and the first instalment is to be paid within twelve months after the survey of the land is made, or in case of the land being surveyed within twelve months after the record.

*Grant of the Land.*

XXII. Upon payment of the purchase money a conveyance of the land purchased shall be executed in favor of the purchaser, reserving the precious minerals with a right to enter and work the same in favor of the Crown, its assignees and licensees, and subject to such mineral leases as may affect the land conveyed.

*Compensation to persons whose Land is taken by the Government.*

XXIII. In the event of the Crown, its assignees or licensees availing itself or themselves of the privileges (other than the taking of land required for roads)

mentioned in clauses 31 and 32, a reasonable compensation for the land taken, wasted or damaged, shall be paid to the person whose land shall be taken, wasted or damaged as aforesaid.

*Priority obtained by Registration with Possession.*

XXIV. Priority of title shall be obtained by the person who being in possession shall first record his claim in manner aforesaid.

*Registration to be Recorded with Land Recorder.*

XXV. Every person who shall have recorded his claim with the Surveyor-General aforesaid, shall within thirty days from such record, record with the Land Recorder of the District or Settlement (when appointed) a copy of the record made with the said Surveyor-General, and all maps or plans accompanying such record.

*Surveyor General may Cancel Claims whose occupation has permanently ceased.*

XXVI. Whenever any person shall permanently cease to occupy land acquired in either of the methods aforesaid, the Surveyor-General may in a summary way, on being satisfied of such permanent cessation, cancel the claim of the person so permanently ceasing to occupy the same and record the claim thereto of any other person satisfying the requirements aforesaid.

*Two Months' Absence, as a Rule, sufficient evidence of Cessation of Occupation.*

XXVII. As an ordinary rule, two months absence from the land acquired shall be sufficient evidence of permanent cessation of occupation.

*Meaning of "Occupation."*

XXVIII. The "occupation" mentioned

herein shall mean a continuous personal residence of the claimant himself.

*Surveyor-General may grant a License to act as Substitute for the Pre-emptor.*

XXIX. If any claimant shall show good cause to the Surveyor-General he may grant him a "License to Substitute" in the form contained in Schedule B hereto, and the continuous personal residence of the person named in such license (such person not being or becoming subsequently to the date of the license a claimant of land under this or any previous Proclamation) shall, during the continuance of the license and after record with the Land Recorder, be as effectual as the continuous personal residence of the claimant himself.

*On Cancellation all Deposits and Improvements Forfeited.*

XXX. All deposits paid in respect of such forfeited claims shall be forfeited, and all improvements, buildings and erections thereon shall (subsequent to the appeal hereinafter mentioned) be open to settlement by any other person.

*Appeal from the Decision of the Surveyor-General.*

XXXI. The summary decision of the Surveyor-General may be appealed by either party to the decision of the Judge of the Supreme Court of Civil Justice, in such manner as may be provided by any Act of the Legislature.

*Saving of Rights of Free Miners.*

XXXII. Nothing herein contained shall be construed as giving a right to any claimant to exclude licensed miners from searching for any of the minerals aforesaid or working the same upon the conditions aforesaid.

*Government may take Land required for Roads or Public Purposes.*

XXXIII. The Government shall, notwithstanding any claim, record or conveyance aforesaid, be entitled to enter and take such portion of the land acquired in either of the methods aforesaid as may be required for roads or other public purposes.

*Saving of the Rights of Miners to carry and lead Water.*

XXXIV. Water privileges and the right of carrying water for mining purposes may, notwithstanding any claim recorded, be claimed and taken upon, under or over the said land so pre-empted or purchased as aforesaid, by licensed miners requiring the same, and obtaining a grant or license from the Surveyor-General, and paying a compensation for damage to the person whose land may be wasted or damaged by such water privilege or carriage of water, to be ascertained in case of dispute in manner aforesaid.

*Forfeiture of old by registration of new claim.*

XXXV. If any person, being already registered as a claimant, register a claim to any other land not being contiguous thereto, the land so previously claimed shall *ipso facto* be forfeited, and shall, with all improvements thereon, be open to settlement by any other person.

*Power of reference to the Surveyor-General.*

XXXVI. In case any dispute shall arise between persons with regard to any land so acquired as aforesaid, and one of the parties in difference may, before ejection or action of trespass brought, refer the question in difference to the Surveyor-General, who may proceed in a summary way to restore the possession of any land in dispute to the person whom he shall

deem entitled to the same, and to abate all intrusions, and award and levy such costs and damages as he may think fit.

*The Governor may appoint Land Recorders.*

XXXVII. The Governor may from time to time appoint, remove, and re-appoint a person resident in any District or Settlement to be "Land Recorder" for the same District or Settlement, and may from time to time appoint a Deputy to act in his place during his absence.

*Duties of the Land Recorder.*

XXXVIII. The duties of the "Land Recorder" shall be to keep a book to be called the "Occupation Record," in which he shall enter at the request of any person who has acquired land, a memorandum of the presence of such person in the District or Settlement on the date of such memorandum, and in the event of such person ceasing to occupy land acquired as aforesaid for a temporary purpose, the name of the person (not being a person registered as a pre-emptor) occupying for him, such person to appear and be identified before such Recorder at the time of the record.

*The Surveyor General to transmit maps and copies of registration to Land Recorder.*

XXXIX. The Surveyor-General shall from time to time as Land Recorders are appointed, transmit to each Recorder copies of all maps of the District or Settlement to which such Recorder is appointed, and also copies of the Registration Record of the said District or Settlement (if any).

*Recorder shall enter copies of fresh records.*

XL. The Land Recorder shall also record in a book to be supplied to him for that purpose, the copies of the Records made with the Surveyor-General, and of



the maps and plans aforesaid, and keep them for the inspection of the public.

*Person occupying in the place of another who records for himself to cease representing the other.*

XLII. Any person occupying land in the place of a person temporarily absent, who shall record any claim to any land, shall be deemed from the date of such record to have ceased to occupy on behalf of the person temporarily absent.

*Recorders Reports.*

XLIII. The Land Recorder shall report to the Surveyor-General once every six months the state of his District or Settlement, particularizing as far as possible the number of settlers who are resident on recorded claims, and the number of claims recorded which have been vacant for two months or longer.

*Statement of Recorder as to certificate of improvement.*

XLIII. A statement of the Land Recorder, signed and addressed by him to the Surveyor-General, shall be *prima facie* evidence of permanent improvements to the value therein mentioned.

*Extracts from "Occupation Book" to be evidence.*

XLIV. An extract from the "Occupation Record," signed by the Land Recorder, and proved to have been so signed by a competent witness, shall be *prima facie* evidence of the occupation by the person therein named as personally present on the date therein mentioned, and an extract made, signed and proved, as aforesaid, of the record of the name of the person occupying as substitute for another, shall be *prima facie* evidence (until rebutted by evidence of absence or registration as aforesaid) of occupation in lieu of the pre-emptor registered.

*Omission to enter the last date when present to be prima facie evidence of absence for two months previous to the application for cancellation.*

XLV. In the event of any application for the cancellation of a claim on the ground of permanent cessation of occupation, if the person whose claim shall be sought to be cancelled shall be shown to have quitted the District, without recording the date of his last presence in the District or Settlement as aforesaid, the date of his absence shall *prima facie* be taken to have been more than two months previously to the date of the application for cancellation.

*The Surveyor General may require notice to be served on party whose claim is sought to be cancelled.*

XLVI. In the event of the Surveyor-General requiring the attendance personally of the person whose claim is so sought to be cancelled, he may require that notice to attend at the Land Office, Victoria, at a time to be fixed by the Surveyor-General, shall be served on such person.

*Notice may be substituted on the Recorder.*

XLVII. In the event of such person not being found and served with such notice, the Surveyor-General may order such notice to be left with the Land Recorder for the District or Settlement where such contested claim is situate.

*Costs of serving substituted notice.*

XLVIII. A sum not exceeding £1, to be fixed by the Surveyor-General, and noted on the notice, shall be paid to the Land Recorder to meet the expenses of serving the said notice, by the party requiring the same to be served.

*Service of substituted notice and return by the Recorder.*

XLIX. The Land Recorder shall, if the

person upon whom the said notice is to be served, can be found in the said District or Settlement, cause the same notice to be served upon him, and as soon as the Land Recorder has served the said person, or ascertained that he cannot be found in the said District or Settlement, shall certify the same under his hand, and remit such certificate by the earliest communication to the Surveyor-General.

*The Surveyor may proceed ex parte.*

L. The Surveyor-General, upon the receipt of the said certificate, and after such postponement and advertisements (if any) as he may think necessary, may determine the question on such evidence, whether *ex parte* or otherwise, as he may think proper.

*Fees payable to the Recorder.*

LI. The Recorder shall be entitled to the fee of 4s. 2d. on recording copies of any pre-emption record from the Land Office, and to a fee of 1s. on recording any other matter or thing, and the said fees shall be paid and payable by the person requiring the record to be made, and the Recorder of each District or Settlement shall also be entitled to the amount of record fees paid at the Land Office for the registration of claims in his District or Settlement.

*Recorder to sign records.*

LII. The Recorder shall sign his name at the foot of every entry in the "Occupation Record."

*Short Title.*

LIII. This Proclamation may be cited as the "Vancouver Island Land Proclamation, 1862."

Given under my hand and the public seal of the said Colony, at Victoria, Vancouver Island, the Sixth day of September, A. D., One Thousand Eight Hundred and Sixty-two, and in the Twenty-sixth year of Her Majesty's reign.

JAMES DOUGLAS.

By His Excellency's Command.

WILLIAM A. G. YOUNG.

GOD SAVE THE QUEEN!

SCHEDULE A.

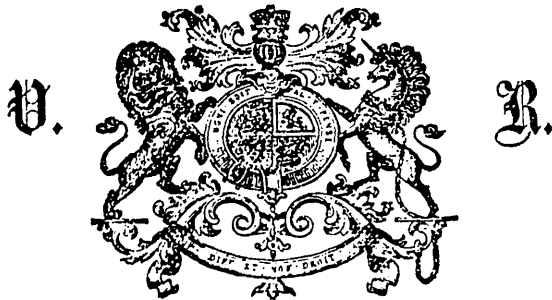
I hereby certify that..... has satisfied me by evidence of (*naming the witness and detailing any other evidence upon which the Surveyor-General has come to his judgment*) that..... of..... has made improvements to the extent of 10s. an acre on..... acres of land, situated at.....

Signed this..... day of.....  
.....

SCHEDULE B.

I hereby license..... of..... to occupy for the space of..... months, the claim recorded No..... Page..... of the Pre-emption Record Book, in the stead of.....

Dated this..... day of.....  
.....  
Surveyor-General.



# AN ACT

**To authorize the Governor of Vancouver Island and its Dependencies to Erect a Powder Magazine for the custody of Gunpowder, and to regulate the Sale, Storage, and Keeping of Gunpowder.**

**WHEREAS**, by the "Powder Magazine Act, 1860," advantages were offered to private enterprise to erect a Magazine for the reception of Gunpowder ;

And whereas, such advantages have failed to induce any person to erect a Magazine for the purpose aforesaid ;

And whereas, large quantities of gunpowder are now stored within the Town of Victoria, to the great peril of Her Majesty's liege subjects.

Be it enacted by His Excellency the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :

Governor may appropriate £700 to the erection of a Powder Magazine. I. That the Governor for the time being of Vancouver Island and its Dependencies is hereby authorized to appropriate a sum not exceeding Seven Hundred Pounds, (£700) to the erection of a safe and sufficient building for the purpose of a Powder Magazine, in a suitable position, for the use of the Merchants and other inhabitants of the Colony. Provided, always, that such Powder Magazine shall not be erected on any point within Laurel Point, in the Harbor of Victoria.

The Magazine to be under the Superintendence of the Surveyor General. II. The Magazine, when erected, shall be under the superintendence of the Surveyor General for the time being, who shall make such regulations as may be deemed expedient.

Surveyor General to notify the opening of the Magazine. III. The Surveyor General shall, as soon as the said Magazine is ready for the reception of Gunpowder, publish a notification to that effect, for the space of one week, in one of the papers circulating in the Colony.

Surveyor General to publish regulations for the governance of the Magazine IV. The Surveyor General shall in like manner publish such regulations as aforesaid, and the same shall come into effect, and be binding on all persons, at the end of the said week.

No person to store Gunpowder for reward within three miles of Victoria, under a Penalty. V. No person or persons shall, after the expiry of the seven day's publication by the Surveyor General of the notification that the Magazine is ready as aforesaid, warehouse for reward any Gunpowder within three miles of the Towns of Victoria and Esquimalt, under a penalty not exceeding £50, to be recoverable before a Magistrate in a summary manner.

Twelve Shillings and sixpence a ton to be charged for the Storage of Powder. VI. There shall be paid for the storage of gunpowder in the said Magazine a sum not exceeding Twelve Shilling and Sixpence a ton for every ton, or part of a ton, stored for one month or part of a month.

No person to store more than fifty pounds of powder. VII. No person or persons shall, after the expiry of the publication aforesaid, keep in any house, store, building, or curtilage to a building, more than Fifty Pounds weight of Powder.

VIII. No person or persons shall, after the expiry of the publication aforesaid, keep in any house, store, building, or curtilage to a building, more than ten pounds of gunpowder ; unless the same be kept in a moveable fire-proof magazine, fitted with wheels, capable of easy transportation.

Nor more than ten pounds unless in Magazine.

IX. Every such moveable magazine may be inspected at any time by the Surveyor General aforesaid, who may either approve or condemn the same ; and until the Surveyor General shall have approved the same, such magazine shall not be deemed a moveable fire-proof magazine, as aforesaid.

Description of Magazine.

X. No person or persons shall have or convey at any one time, within three miles of the Towns of Victoria and Esquimalt, more than twenty-five barrels of gunpowder in any waggon, cart, or other carriage by land, or more than two hundred barrels of gunpowder in any barge, boat, or other vessel by water, (except in vessels with gunpowder imported from, or to be exported to, any place beyond the sea, or going coastwise); and all gunpowder conveyed on land or water, (except in such vessels for importation or exportation of gunpowder, or going coastwise,) shall be in barrels close joined and hooped, without any iron about them, and so secured that no part of the gunpowder be scattered in the passage; and each barrel shall contain no more than one hundred pounds of gunpowder; and when conveyed by land shall be entirely enclosed in a leather bag, commonly called a saltpetre-bag; and every carriage in which gunpowder shall be conveyed by land shall have a complete covering of wood, painted cloth, tarpaulin, or wadmilt tilts, over all the gunpowder therein contained; and, also, no gunpowder shall be conveyed in any barge, boat, or other vessel by water, (except in vessels with gunpowder imported, or to be exported in manner aforesaid, or going coastwise) that hath not a close deck; and as soon as any gunpowder is put on board such vessel, all such gunpowder shall be covered with raw-hides or tarpaulins; and all gunpowder which shall be carried or conveyed (except in such vessels with gunpowder for importation or exportation as aforesaid, or going coastwise,) within three miles of Victoria or Esquimalt aforesaid, in greater quantity, or in other manner, than is hereinbefore prescribed, and the barrels in which such gunpowder shall be, may be seized by any person or persons, under a warrant from a Justice of the Peace as is hereinafter prescribed, who shall have the same authority to remove such gunpowder and barrels, and to use for that purpose during the space of

Penalties on carrying more than 25 barrels of powder by land, or 200 barrels by water.

Character of barrels and wrappings.

twenty-four hours after the seizure, the carriage or vessel in which such gunpowder shall be seized, and the tackling, beast and accoutrements belonging thereto, on the terms of paying a recompense for the use thereof, and to detain such gunpowder and barrels, as is hereinafter given to persons searching under a warrant of a Justice of the Peace, and such seizure shall be for his, or her, or their use, on conviction of the offender or offenders.

Penalties  
against using  
fire.

XI. That if any person or persons having the care or management of any barge, boat, or other vessel whatsoever (except ships or vessels with gunpowder on board imported from, or to be exported to, places beyond sea, or going coastwise,) loaded with gunpowder, or any other person on board the same shall bring have or use, or permit any person or persons to bring, have or use any charcoal or other combustible, or any fire or lighted candle, or shall smoke or wittingly permit any person to smoke on board the same, all and every such person and persons shall forfeit a sum not exceeding Ten Pounds (£10).

Penalties to be  
recovered  
before a Justice  
of the Peace,  
and to be  
apportionable  
between Her  
Majesty and the  
informer.

XII. That all penalties created by this Act shall be recoverable before any Justice of the Peace, on proof of the offence by the oath or oaths of one or more credible witness or witnesses, or on confession of the offender, and one moiety of each penalty shall belong to Her Majesty, her heirs or successors, and the other moiety thereof to the informer or informers prosecuting the same; and where the penalty shall be pecuniary, in case of non-payment it shall be levied by distress and sale of the offender's goods and chattels by warrant under the hand and seal of such Justice, and the overplus of the money raised, after deducting the penalty and expenses of the distress and sale, shall be rendered to the owner, and for want of sufficient distress the offender shall be sent by such Justice to jail, there to be kept to hard labor for any time not exceeding six months nor less than three months, as such Justice shall think most proper.

All actions to be  
commenced  
within six  
calendar  
months.

XIII. That all actions, suits and prosecutions to be commenced in this Colony against any person or persons for anything to be done in pursuance of this Act, shall be commenced within six calendar months after the fact committed, and not otherwise.

XIV. It shall be lawful for any Justice of the Peace, whenever Gunpowder is suspected to be kept or carried contrary to this Act, on demand made, and a reasonable cause assigned upon oath by any person or persons, to issue a warrant or warrants under his hand and seal, for searching, in the day time, any house, magazine, storclhouse, warehouse, shop, cellar, yard, wharf, or other place ; or any carriage, ship, boat or vessel, in which such Gunpowder is suspected to be kept or carried contrary to this Act ; and also the Gunpowder and barrels shall be immediately seized by the searcher or searchers, who shall with all convenient speed after the seizure remove such Gunpowder and the barrels in which it shall be, to such proper places as they, in conformity to the restrictions of this Act, shall think fit ; and in the case of any such Gunpowder seized in any carriage or vessel, may use for the purpose of removal, during the space of twenty-four hours after seizure, such carriage or vessel, with the tackling, boats and accoutrements belonging thereto, (paying afterwards to the owner or owners thereof a sufficient recompense for the use thereof, to be settled by the Justice before whom the complaint shall be heard after the seizure, and in case of non-payment immediately after settlement by such Justice, to be recoverable by distress and sale of the parties' goods and chattels, as is hereinbefore directed concerning the pecuniary penalties of this Act.) and may detain such Gunpowder and the barrels in which it shall be, till it shall be adjudged on a hearing before any two or more such Justices, whether the same shall be forfeited ; and such searcher or searchers, seizer or seizers, shall not be liable to any suit for such detainer, or for any loss or damage which may happen to the said Gunpowder or barrels, other than by the wilful acts or neglect of them or the persons with whom they shall intrust the keeping thereof.

Power to  
Justice of the  
Peace to issue a  
search warrant.

XV. Any act of commission or omission prohibited by this Act shall be punishable by fine of not less than forty shillings nor more than twenty-five pounds, in the discretion of the Justice or Justices hearing the same.

Pecuniary  
Penalty.

XVI. This Act may be cited as "The Gunpowder Act, 1862."

Short Title.

[6]

Passed the House of Assembly, 12th August, 1862.

E. BOWERS DOGGETT,  
Clerk of the House.

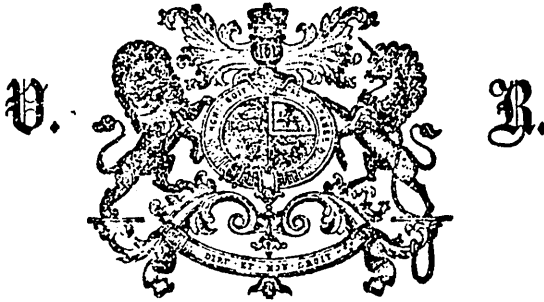
Passed the Council, 19th September, 1862.

JOSEPH PORTER,  
Acting Clerk of Council.

Received my assent this 12th day of December, A. D. 1862.

JAMES DOUGLAS,  
Governor.





# AN ACT

## To impose certain Stamp Duties on Writings and Deeds.

**WHEREAS** it is expedient to impose Stamp Duties on Writings and Deeds ;

Be it enacted by His Excellency the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :—

I. There shall be raised, levied and paid unto and for the use of Her Majesty, her heirs and successors, in the Colony of Vancouver Island and its Dependencies, for and in respect of the several instruments, matters and things mentioned and described in the Schedule hereto annexed, the several duties or sums of money set down in figures against the same respectively.

The Duties specified in the Schedule to be paid.

II. The Duties hereby granted shall be under the care and management of the Colonial Treasurer, who shall provide proper and sufficient Stamps and Dies for expressing and denoting the several Duties hereby granted in manner following :—

Duties to be under the care of the Treasurer, who is to provide certain Stamps.

An Adhesive Stamp denoting the value of Two Pence Half-penny.

One Impressed Stamp denoting the value of Two Shillings.

One Impressed Stamp denoting the value of Four Shillings.

One Impressed Stamp denoting the value of Eight Shillings.

One Impressed Stamp denoting the value of Twelve Shillings.

One Impressed Stamp denoting the value of Sixteen Shillings.

One Impressed Stamp denoting the value of One Pound.

Treasurer is to issue Stamps.

III. The Treasurer may issue as many of such Adhesive Stamps as may be required for the public service, to such persons as may be willing to purchase the same.

Reduction on sale of Adhesive Stamps.

IV. All persons requiring Adhesive Stamps may obtain the same from the Treasurer at a reduction of 5 per cent. on the quantity required, in quantities of an amount not less than £5 at one time. All persons requiring any other stamps than Adhesive Stamps may obtain the same from the Treasurer by paying the amount of such stamps; and the same stamps may be impressed by the Treasurer, either on the instrument requiring the stamp when executed (but subject as hereinafter mentioned) or on sheets of paper, parchment or vellum, to be provided by the person requiring the same.

Reduction on Impressed Stamps.

V. The Treasurer may supply such Impressed Stamps at a reduction of £5 per cent. on the quantities required, to such persons as may require the same, in quantities of not less in amount than £10 at one time.

Deeds requiring an Impressed Stamp may be stamped within 14 days.

VI. Every instrument requiring the imposition of an Impressed Stamp may be stamped by the Treasurer within fourteen days from the date thereof without a penalty.

Adhesive Stamp to be written across.

VII. In any case where an Adhesive Stamp shall be used on any receipt or on any draft or order, bill of exchange, or promissory note, respectively chargeable with any of the duties by this Act, the person by whom such receipt shall be given or such draft or order, bill of exchange or promissory note, signed or made, shall, before the instrument be delivered out of his hands, cancel or obliterate the stamp so used by writing his name and the day of the month and year, upon which he shall so write his name across the face of the said stamp so affixed to the said instrument in such a manner as to show clearly and distinctly that such stamp has been made use of; and if any person who shall write and give any such receipt or discharge, or make or sign any such draft or order, promissory note or bill of exchange, with any Adhesive Stamp thereon, shall not *bona fide* in manner aforesaid effectually cancel or obliterate such stamp, he shall forfeit the sum of Ten Pounds.

No instrument to be given in evidence unless stamped.

VIII. That no bill of exchange, promissory note, or other note, draft, order, receipt, discharge, acquittance, note, memorandum, writing, agreement, deed or instrument, liable to any Stamp Duty under this Act, shall be pleaded or given in evidence in any Court, or admitted in any Court to be good, useful or available in law,

equity, admiralty or bankruptcy, unless it shall bear the proper stamp directed by this Act, or some stamp of a higher value ; or shall have been deposited for registration in the office of the Registrar-General, by virtue of the " Land Registry Act, 1860," within fourteen days of its first execution.

IX. That all and every person or persons who shall write or sign or cause to be written or signed any receipt, draft or order, or who shall accept or pay or cause to be accepted or paid any bill of exchange, promissory note or other note, draft or order, liable to any of the duties by this Act imposed, upon any piece of vellum, parchment or paper, without the same being first duly stamped or marked with a proper stamp or mark in the manner herein prescribed, or upon which there shall not be some stamp or mark resembling the same, shall for every such offence forfeit and pay the sum of Twenty Pounds, to be recovered as hereinafter is directed.

Penalty on Person giving receipt or order or paying promissory note or other order without the same being duly stamped.

X. That if any bill of exchange, promissory note, or other note, draft or order, shall be produced to the Treasurer before the same shall be payable, according to the tenor and effect thereof, the same shall be stamped on payment of the said duty and the penalty of forty shillings ; but in case such bill of exchange, promissory note, or other note, draft, or order, shall be payable according to the tenor and effect thereof before the production thereof to the said Treasurer for the purpose before mentioned, then the same shall not be stamped, unless on payment of the duty and the sum of Ten Pounds for the said penalty.

Bill of exchange, note, or order may be stamped, under a penalty, before the same becomes payable.

XI. That if any Attorney, Solicitor, Clerk, officer or other person shall engross, print or write, or caused to be engrossed, printed or written any indenture, lease, bond or other deed, on vellum, parchment or paper not duly stamped according to the directions of this Act, and shall neglect to bring the same to be duly Stamped or Registered in the Land Registry Office, in the manner and within the time hereby directed and allowed for registering or stamping the same, every such Attorney, Solicitor, Clerk, Officer, or other person, shall forfeit and pay the sum of Twenty Pounds.

Penalties on Attorneys or others engrossing Deeds on unstamped paper or parchment.

XII. That in all cases of the Sale or Mortgage of any Lands, Tenements, Rents, Annuities, or other property, real or personal ; or of any right, title, interest or claim into, out of or upon any lands, tenements, rents, annuities, or other property where a duty is imposed on the conveyance or mortgage thereof in the Schedule hereunto annexed, in proportion to the amount of the purchase or consideration

Consideration to be expressed on Instrument.

money therein or thereupon expressed, the full purchase or consideration money which shall be directly or indirectly paid or secured, or agreed to be paid for the same, shall be truly expressed and set forth in words at length in or upon the principal or only deed, or instrument whereby the land or other thing sold or mortgaged shall be granted, assigned, transferred, released, mortgaged, renounced or otherwise conveyed to, or vested in the purchaser or purchasers, mortgagee or mortgagees, or any other person or persons by his, her, or their direction; and also whereupon the sale of any annuity, easement, servitude, or other right not before in existence, the same shall not be created by actual grant or conveyance, but shall only be secured by Bond, Warrant of Attorney, Covenant, Contract or other security, the full purchase or consideration money which shall be directly or indirectly paid or secured; or agreed to be paid for the same, shall be truly expressed and set forth in words at length, in or upon the Bond or other instrument or instruments by which the same shall be secured; and if in any of the cases the full purchase or consideration money shall not be truly expressed and set forth in the manner hereby directed, the purchaser or purchasers, and also the seller or sellers, shall, unless the same deed or instrument shall have been deposited for Registration in the Land Registry Office within fourteen days from its first execution, forfeit the sum of Fifty Pounds, and shall also be charged and chargeable with, and be holden liable to the payment of five times the amount of the excess of duty which would have been payable for such Deed, Bond, or other instrument aforesaid, in respect of the full purchase or consideration money, in case the same had been truly expressed and set forth in or upon the same, pursuant to the directions of this Act, and the Schedule hereunto annexed, beyond the amount of the duty actually paid for the same, which quintuple duty shall be deemed and taken to be a debt to Her Majesty, Her Heirs and Successors, of the party or parties respectively hereby made liable to pay the same, and shall and may be sued for and recovered accordingly.

**Informant not to be liable to penalty, and to be rewarded.**

Provided, always, that if any or either of the parties hereby made liable to the payment of such penalty and quintuple duty as aforesaid, shall give information to the Treasurer whereby such penalty or quintuple duty, or any part thereof, shall be recovered from any other party or parties liable thereto, the party or parties giving the information shall not only be indemnified and discharged as such, his, her, or their liability, but shall also be rewarded by the Treasurer out of the penalty or quintuple duty so recovered, to such extent as the said Treasurer shall think proper, but not exceeding one half of what shall

be so recovered ; and where any other person shall give information whereby any such penalty or quintuple duty shall be recovered, he or she shall be rewarded in like manner.

XIII. That where the full purchase or consideration money shall not be truly expressed and set forth in the manner hereby directed, it shall be lawful for the purchaser or purchasers, or any of them, or his, her, or their executors or administrators, to recover back from the seller or sellers, or his, her or their executors or administrators, so much and such part of the purchase or consideration money as shall not be so expressed and set forth in an action for money had and received for the use of the party or parties suing for the same, and either in the Superior or Inferior Court.

Power to  
Purchaser to  
recover money  
paid when not  
truly expressed.

XIV. That if any Attorney, Solicitor, or other person who shall be employed in or about the preparing of any such deed, bond, or other instrument, in or upon which the full purchase or consideration money is hereby required to be duly expressed and set forth as aforesaid, or who shall be employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned, shall knowingly and wilfully insert or set forth, or cause to be inserted or set forth in or upon any such deed, bond, or other instrument, any other than the full and true purchase or consideration money, directly or indirectly paid or secured, or agreed to be paid for the same, or shall in anywise aid or assist in the doing thereof respectfully, every such Attorney, Solicitor, or other person so offending, shall for every such offence forfeit the sum of Five Hundred Pounds ; and every Attorney, Solicitor, or other person so offending, and being thereof lawfully convicted, shall also be from thenceforth disabled to practice as an Attorney or Solicitor ; and any other person being entitled or entrusted to prepare any such deed or other instrument in virtue of any public office or employment, and being guilty of such offence in the execution of his office or employment, and being thereof lawfully convicted, shall also forfeit and lose his office or employment, and be from thenceforth incapable of holding the same.

Penalty on  
Attorneys  
wilfully setting  
out an  
erroneous  
consideration.

Provided, always, that no party, Attorney, Solicitor, or other person whatsoever shall be liable to any penalty, disability or forfeiture whatsoever, by reason of the full purchase, mortgage, or consideration money not being truly expressed and set forth in or upon any such deed, bond, or other instrument as aforesaid, unless the duty or duties actually paid for the same shall be less than would have been payable for the same, in case the full purchase or consideration money had been truly expressed and set forth according to the directions of this Act.

Attorneys not  
liable if true  
duty paid.

Power to  
demand  
receipt.

XV. That it shall be lawful for any person or persons, or any agent or agents of any person or persons from whom any sum or sums of money shall be due or payable, or claimed to be due or payable, and who shall have paid such sum or sums of money to provide a piece of paper, vellum, or parchment, duly stamped with the proper duty, and according to the amount of the sum or sums so paid as aforesaid, or some higher rate of duty in this Act contained, and to demand and require of the person or persons entitled to such sum or sums of money, or any agent or agents to whom the same shall have been paid, a receipt, discharge and acquittance for such sum or sums of money, and also the amount of the duty thereon, as aforesaid; and if any person to whom any sum or sums of money shall have been paid, as aforesaid, shall refuse to give such receipt, discharge and acquittance upon demand thereof, or pay the amount thereof as aforesaid, every such person shall forfeit and pay for every such offence the sum of Ten Pounds, to be recovered as, and by way of liquidated damages, by such person or persons, agent or agents in the Inferior Court.

Penalties on  
Forgery.

XVI. That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any Stamp or Die, or any part of any Stamp or Die which shall have been provided, made, or used in pursuance of this Act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression of any such Stamp or Die, as aforesaid, or shall forge or counterfeit, or cause or procure to be forged or counterfeited, the signature of the Treasurer written under any Stamp, upon any vellum, parchment, or paper; or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper with any such forged or counterfeited Stamp or Die, or part of any Stamp or Die, as aforesaid, with intent to defraud Her Majesty, Her Heirs or Successors, of any of the duties hereby granted, or any part thereof; or if any person shall utter or sell, or expose to sale, any vellum, parchment, or paper, having thereupon the impression of any such forged or counterfeited Stamp or Die, or part of any stamp or die, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, or signature of the Treasurer, as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; or if any person shall privately and secretly use any Stamp or Die which shall have been so provided, made or used, as aforesaid, with intent to defraud Her Majesty, Her Heirs or Successors, of any of the said Duties, or any part thereof; or if any person shall fraudulently cut, tear, or

get off, or cause or procure to be cut, torn, or got off, the impression of any Stamp or Die which shall have been provided, made, or used, in pursuance of this Act for expressing or denoting any duty or duties under the care and management of the Treasurer, or any part of such duty or duties, from any vellum, parchment, or paper, or any instrument or writing, charged or chargeable with any of the Duties hereby granted, then, and in every such case, every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person or persons in committing any such offence as aforesaid, and being thereof lawfully convicted, shall be adjudged guilty of felony.

Penalty may  
be paid on  
Deeds not  
stamped within  
14 days.

XVII. Where any Deed or Instrument, other than a Receipt, Discharge, Draft, or Order, Promissory Note, or Bill of Exchange, liable by law to any Stamp Duty, shall be written on Vellum, Parchment, or Paper, and shall be signed or executed by any person before such Vellum, Parchment or Paper shall be duly stamped for denoting the payment of the said duty, and shall not be presented for the purpose of being stamped within the period of fourteen days expressed, then, and in every such case, there shall be due answered and paid to Her Majesty, Her Heirs and Successors, the whole, or (as the case may be) the deficiency of the Stamp Duty payable upon or in respect of such Deed or instrument; and there shall also be paid, and payable over and above the said duty, or deficiency of duty, by way of penalty, the sum of Ten Pounds; and where the whole amount of the duty, or deficiency of the duty (as the case may be) to be denoted by the Stamp or Stamps required to be impressed on such Deed or Instrument, when the same shall be brought to be stamped, shall exceed the sum of Ten Pounds, there shall be paid by way of penalty, in addition to the said sum of Ten Pounds, interest on the said duty or deficiency of duty, computed at the rate of Two Pounds per centum per mensem from the date or first signing or execution of such Deed or Instrument; provided, that if such interest shall exceed in amount the said duty or deficiency of duty, and the said sum of Ten Pounds, and in lieu of the said interest, a sum equal to the amount of the said duty or deficiency of duty; and the Treasurer is hereby required, upon payment of the said duty or deficiency of duty, and of the said sum or sums hereinbefore directed to be paid by way of penalty, to cause such Deed or Instrument to be duly stamped with a Stamp or Stamps for denoting the payment of such duty, or deficiency and penalty, and to write thereunder a statement of the amount paid for duty, and the amount paid for penalty, and to sign and date the same; and no such Deed or Instrument shall be pleaded or given in evidence, or admitted to be good, useful or available in law or equity, until the same shall be

Power to the  
Treasurer to  
remit penalty  
in certain cases.

duly stamped in manner aforesaid. Provided always, that where it shall appear to the Treasurer upon oath or otherwise to his satisfaction that any deed or instrument, receipt, discharge, draft, order, promissory note, or bill of exchange hath not been duly stamped previously to being signed or executed by reason of accident, mistake or urgent necessity, or by reason of the same having been executed or signed at a distance from the Treasury, and without any wilful design or intention to defraud Her Majesty, her heirs or successors of the duty chargeable in respect thereof, or to evade or delay the payment of such duty, then, and in any such case, if such deed or instrument shall, within twelve calendar months after the first signing or executing of the same by any person, be brought to the said Treasurer in order to be stamped, and the stamp duty chargeable thereon by law shall be paid, it shall be lawful for the said Treasurer, if he shall think fit, to remit the whole or any part of the penalty payable on stamping such deed or instrument, and to cause such deed or instrument to be duly stamped upon payment of the whole or (as the case may be) the deficiency of the Stamp Duty chargeable thereon by law, and either with or without any portion of the said penalty, and to write thereon a statement of such remission or part remission, and sign and date the deed or instrument in manner aforesaid; and thereupon every such deed or instrument shall be as valid and available in the law as it would have been if it had been duly stamped before the signing or executing of the same. Provided always, that it shall be lawful for the Treasurer to order and direct that any deed or instrument which shall have been or shall or may be signed or executed by any party thereto at any place out of this Colony may be duly stamped upon payment of the proper Stamp Duty payable thereon, and without payment of any additional duty or penalty, provided that such deed or instrument shall be brought to the said Treasurer to be stamped as aforesaid within the space of two calendar months from the time when the same shall have been received in this Colony, and provided proof shall be first made to the satisfaction of the said Treasurer of the facts aforesaid; and the said Treasurer shall write thereunder a statement of such order, and shall sign and date the same in manner aforesaid.

Power to the  
Treasurer to  
remit penalty  
in certain cases

Treasurer may  
denote the  
amount of  
Stamp Duty  
payable.

XVIII. And whereas doubts frequently arise as to the Stamp Duties with which some deeds or instruments are chargeable, and it is expedient that provision should be made whereby such doubts may be removed;

Be it enacted that when any deed or instrument liable to Stamp



Duty, whether previously stamped or otherwise, shall be presented to the Treasurer, and the party presenting the same shall desire to have the opinion of the said Treasurer as to the Stamp Duty with which such Deed or Instrument in his judgment is chargeable, and shall tender and pay to the said Treasurer a fee of Ten Shillings, (which shall be accounted for, and paid over, as part of Her Majesty's Revenue arising from Stamp Duties,) it shall be lawful for the said Treasurer, and he is hereby required to assess and charge the Stamp Duty to which in his judgment such Deed or Instrument is liable, and upon payment of the Stamp Duty so assessed and charged by him, or in the case of a Deed or Instrument insufficiently stamped, of such a sum as together with the Stamp Duty already paid thereon, shall be equal to the duty so assessed and charged, and upon payment also of the amount (if any) payable by way of penalty on stamping such Deed or Instrument, to stamp such Deed or Instrument with the proper stamp or stamps denoting the amount of the duty so paid ; and thereupon, (or if the full stamp duty to which, in the judgment of the said Treasurer, such Deed or Instrument shall be liable, shall have been previously paid and denoted upon the same in manner aforesaid), the said Treasurer shall write underneath, the day, month and year whereon he shall impress such stamp, and the word "denoted," and sign the same ; and such last-mentioned signature shall be deemed to denote that the full amount of Stamp Duty with which such Deed or Instrument is by law chargeable has been paid ; and every Deed or Instrument upon which the same shall be written shall be deemed to have been duly stamped, and shall be receivable in evidence in all the Courts of Law or Equity, notwithstanding any objection made to the same as being insufficiently stamped.

Provided, always, that if the party presenting such Deed or Instrument to the said Treasurer, as aforesaid, for his opinion as to the Stamp Duty with which the same is chargeable, shall declare himself dissatisfied with the determination made by him in that behalf, it shall be lawful for such party upon paying the amount of the Stamp Duty according to such determination, and depositing with the said Treasurer the sum of Forty Shillings for costs and charges to be paid by him in the event hereinafter provided for, to require the said Treasurer to state specially, and to sign the case on which the question with respect to such stamp duty arose, together with his determination thereupon, which case the said Treasurer is hereby required to state and sign accordingly, and to cause the same to be delivered to the party making such request as aforesaid, in order that he may appeal against such determination to the Chief Justice of the Supreme

**Appeal from  
the decision of  
the Treasurer.**

Court, and upon the application of the said party, (due notice thereof being given to the Attorney General to the end that the Counsel may be heard on behalf of the Treasurer), it shall be lawful for the said Chief Justice, and the said Chief Justice is hereby required to hear and determine the said appeal, and to decide as to the Stamp Duty with which such Deed or Instrument is chargeable, and according to such decision, the Stamp Duty and Penalty (if any) which shall have been the subject of such case, shall be deemed to have been payable by law; and, if no excess of Stamp Duty or Penalty shall have been paid to the said Treasurer by the said appellant over and above the sum which, according to the decision of the said Chief Justice, ought to have been paid upon, or in respect of such Deed or Instrument, the said sum of Forty Shillings deposited for costs and charges as aforesaid, shall be applied to the use of Her Majesty's Revenue; but if any such excess as aforesaid shall have been so paid by the said appellant, the same, together with the said sum of Forty Shillings deposited as aforesaid, shall be repaid by the said Treasurer to the said appellant; and if the sum paid for Stamp Duty or Penalty upon, or in respect of such Deed or Instrument, shall fall short of the amount which, according to the decision of the said Chief Justice upon any such appeal, is chargeable or ought to be paid upon, or in respect of such Deed or Instrument, the deficiency of such Stamp Duty or Penalty, or both, as the case may be, shall be paid by the said appellant to the said Treasurer, and the Chief Justice shall order and enforce the payment thereof accordingly.

Penalties on  
fraudulent  
removal of  
Stamps.

XIX. If any person shall fraudulently get off, or remove, or cause to be got off or removed from any paper whereon any receipt, or any draft or order shall be written, any adhesive stamp; or if any person shall affix or use any such stamp which shall have been gotten off or removed from any paper whereon any such receipt, draft or order shall be, or be intended to be, written; or if any person shall do or practice, or be concerned in any fraudulent act, contrivance, or device whatever, not specially provided for by this Act, with intent or design in so doing to defraud Her Majesty, Her Heirs or Successors, of any duty by this Act granted, every person so offending in any of the several cases, shall forfeit the sum of £20.

Duties on  
Foreign Bills.

XX. The duties by this Act granted in respect of Bills of Exchange drawn out of this Colony, shall attach and be payable for such Bills as shall be paid, endorsed, transferred, or otherwise negotiated within this Colony, wheresoever the same may be made payable.

**XXI.** Every Bill of Exchange which shall purport to be drawn at any place out of this Colony, shall, for all the purposes of this Act, be deemed to be a foreign Bill of Exchange drawn out of this Colony, and shall be chargeable with Stamp Duty accordingly, notwithstanding, in fact, the same may have been drawn within this Colony. The holder of any Bill of Exchange drawn out of this Colony, and not having a proper Stamp thereon as herein directed, shall, before he shall present the same for payment, or indorse, transfer, or in any manner negotiate such Bill, affix thereon a proper adhesive stamp for denoting the duty by this Act charged on such Bill; and the person who shall indorse, transfer, or negotiate such Bill, shall, before he shall deliver the same out of his hands, custody, or power, cancel the Stamp in manner aforesaid; and if any person shall present for payment, or shall pay or indorse, transfer or negotiate any such Bill as, aforesaid, whereon there shall not be such Stamp; or if any person who ought, as directed by this Act, to cancel such Stamp, in manner aforesaid, shall refuse or neglect so to do, such person so offending in any such case shall forfeit the sum of £20; and no person who shall take or receive from any other person any such Bill as aforesaid either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose whatever, unless at the time when he shall so take or receive such Bill, there shall be such Stamp as aforesaid affixed thereon, and cancelled in manner hereby directed. Provided, always, that no Stamp shall be required, and none of the penalties in this Act contained for the omission of a Stamp, shall apply where any Deed or Instrument otherwise requiring a Stamp, shall be registered pursuant to the provisions of the "Land Registry Act, 1860," in the Office of the Registrar General, within fourteen days from the date or first execution or signature of such Deed or Instrument. Provided, always, that the said Treasurer may, in stamping any Deed or Instrument, parchment, vellum or paper, needing two or more of the stamps so to be provided by the Treasurer as aforesaid, use two or any other number of such stamps, as the nature of the case may require.

**Foreign Bills.**  
nature of.

**No Stamp Duty**  
where  
Registration  
is effected.

**XXII.** This Act shall come in force fourteen clear days after the publication in one of the Victoria papers of a notice from the Treasurer that the Stamps mentioned in the Act are ready at the Office of the Treasurer.

**Act to come**  
**into force 14**  
**days after**  
**notice by the**  
**Treasurer**  
**that Stamps are**  
**in readiness.**

**XXIII.** This Act may be cited as "The Vancouver Island Stamp Act, 1862."

**Short Title.**

[12]

Passed the House of Assembly, 14th August, 1862.

E. BOWERS DOGGETT,  
Clerk of House of Assembly.

Passed the Council, the 15th October, 1862.

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this, 12th day of December, A. D., 1862.

JAMES DOUGLAS,  
Governor.

## SCHEDULE.

## A.

Receipt or Discharge given for or on the payment of money amounting to Ten Pounds, (£10), or Fifty Dollars, (\$50), or upwards—Two pence half-penny.

## EXEMPTIONS :

Receipts given for money deposited in any Bank, or in the hands of any Banker, to be accounted for with interest, or not, provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for. Provided, always, that this exemption shall not extend to receipts or acknowledgments for sums paid or deposited for or upon letters of allotment of shares, or in respect of calls upon any scrip or shares of or in any Joint Stock or other Company, or proposed or intended Company, which said last mentioned receipts or acknowledgments by whomsoever given, shall be liable to the duty by this Act charged on Receipts.

SCHEDULE.

B.

Inland Bill of Exchange, draft, or order for the payment to the bearer or order, at any time otherwise than on demand, of any sum of money—Two pence half-penny.

Foreign Bill of Exchange drawn in, but payable out of this Colony if drawn singly, the same duty as on an Inland Bill of the same tenor.

If drawn in sets of three or more, for every Bill of each set—Two pence half-penny.

Foreign Bill of Exchange drawn out of this Colony, and payable within this Colony, the same amount as an Inland Bill of the same tenor.

Foreign Bill of Exchange drawn out of this Colony, and payable out of this Colony, but endorsed or negotiated within this Colony,—the same duty as on a Foreign Bill drawn within this Colony and payable out of this Colony.

Promissory Note or Inland Bill of Exchange payable on demand—Two pence half-penny.

SCHEDULE.

C.

Every agreement or any minute or memorandum, made in Vancouver Island or its dependencies, under hand only, where the matter thereof shall be of the value of Twenty Pounds (£20) or upwards whether the same shall be only evidence of a contract or obligatory on the parties, from its being a written instrument, together with every schedule, receipt, or other matter put or endorsed thereon or annexed thereto—Two Shillings.

## SCHEDULE.

## D.

Bond given as security for the payment of any definite and certain sum of money, not exceeding £50 . . . . .	£0 2 0
Exceeding £50 and not exceeding £200 . . . . .	0 4 0
Exceeding £200 and not exceeding £500 . . . . .	0 8 0
Exceeding £500 and not exceeding £1000 . . . . .	0 12 0
Exceeding £1000 and not exceeding £2500 . . . . .	1 0 0
Exceeding £2500 and not exceeding £5000 . . . . .	2 0 0
Exceeding £5000—for every additional £500 or part of £500 . . . . .	0 2 0

Bond given as a security for the repayment of any sum or sums of money to be thereafter lent, advanced or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be, where the money secured, or to be ultimately recoverable thereupon, shall be limited not to exceed a given sum—the same duty as on a bond for such limited sum; and where the total amount of the money secured, or to be ultimately recoverable thereupon, shall be uncertain and without any limit—the same duty as on a bond for a sum equal to the amount of the penalty of such bond;—and where there shall be no penalty of the bond in such last mentioned case, such bond shall be available for such an amount only as the ad valorem duty denoted by any stamp or stamps thereon will extend to cover.

Bond for any purpose other than securing the payment of a definite and certain sum of money—Eight Shillings.



## SCHEDULE.

## E.

Conveyance, whether grant, disposition, lease, assignment, transfer release, renunciation, or of any other kind or description whatsoever, upon the sale of any lands, tenements, rents, annuities or other property, real or personal, or of any right, title, interest or claim in, to, out of, or upon any lands, tenements, rents, annuities, or other property, that is to say, for and in respect of the principal or only Deed, Instrument or writing whereby the lands or other things sold shall be granted, leased, assigned, transferred, released, or otherwise conveyed to, or vested in the purchaser or purchasers, or any other person or persons by his, her, or their direction.

Where the purchase or consideration money therein } or thereupon expressed shall not exceed £25. }	£0 2 0
And where the same shall exceed £25, and not } exceed £200 . . . . . }	0 4 0
And where the same shall exceed £200, and not } exceed £500 . . . . . }	0 8 0
And where the same shall exceed £500, and not } exceed £1000 . . . . . }	0 12 0
And where the same shall exceed £1000, and not } exceed £2500 . . . . . }	1 0 0
And where the same shall exceed £2500, and not } exceed £5000 . . . . . }	2 0 0
And for every £2500, or fractional part of £2500, } additional . . . . . }	0 10 0

## SCHEDULE.

## F.

**COVENANT.**—Any separate Deed of Covenant made on the sale or mortgage of any freehold or leasehold estate, or of any right or interest therein, (the same not being a deed chargeable with ad valorem duty under the head of conveyance in this schedule), for the conveyance, assignment, surrender or release of such estate, right, or interest, or for the title to, or quiet enjoyment, freedom from encumbrances, or further assurance of the same estate, right or interest, or otherwise by way of indemnity in respect of the same ; or for the production of the title deeds, or muniments of title relating thereto, or for all or any of those purposes,—a duty equal to the amount of such ad valorem duty.

**COVENANT.**—Any deed containing a covenant for the payment or repayment of any sum or sums of money, or for the transfer or retransfer of any share or shares in the Government or Parliamentary stock, or funds of any other Company or Corporation, in case where a mortgage if made for a like purpose, would be chargeable under the schedule with any ad valorem duty, or for the payment of any annuity, or any sums at stated periods, in any case where a bond for the like purpose would be chargeable with any such duty,—the same ad valorem duty as on a mortgage or bond respectively for the like purpose.

Provided always, that where any Covenant, shall be made as an additional or further security for the payment or repayment, transfer or retransfer of any sum or sums of money, or any share or shares in any of the said stocks or funds, or for the payment of any annuity or sum at stated periods, at the same time or already or previously secured by any bond or other instrument, mentioned and referred to by the deed containing such Covenant and chargeable with, and which shall have paid the proper ad valorem duty under the head of "Bond" or "Mortgage," or, (as respects any annuity) under the head of "Conveyance," respectively in this schedule, in respect of the same sum or sums, share or shares, the said ad valorem duty hereby charged shall not be payable upon or in respect of such Covenant, and, if required for the sake of evidence, the deed containing such Covenant shall on the same and such bond or other instrument being produced duly stamped in other respects, be stamped with a stamp for denoting or testifying the payment of the ad valorem duty hereby charged.

## SCHEDULE.

## G.

Duplicate or Counterpart of any deed or Instrument of any description whatever, chargeable with any stamp duty or duties under this schedule 4s. Provided always, that the Treasurer shall write underneath such stamp the day, month, and year, whereon he shall impress such stamp, and shall sign the same ; and the Treasurer shall impress such stamp, and write as aforesaid upon such Duplicate or Counterpart on the same being produced, together with the original deed or instrument, and on the whole being duly executed and duly stamped in all other parts.

## SCHEDULE.

## H.

Lease of any lands, tenements or hereditaments, granted in consideration of a sum of money by way of fine or premium, paid for the same without any yearly rent, or with any yearly rent under £20,—the same duty as for a conveyance on the sale of lands for a sum of money of the same amount.

Lease of any lands, tenements or hereditaments at a yearly rent, without any sum of money by way of fine or premium paid for the same.

Where the yearly rent shall not exceed £5 . . . . .	£0 0 5
And where the same shall exceed £5, and not exceed } £50 . . . . . }	0 2 0
And where the same shall exceed £50, and not } exceed £100 . . . . . }	0 4 0
And where the same shall exceed £100, and not } exceed £250 . . . . . }	0 12 0
And where the same shall exceed £250, and not } exceed £500 . . . . . }	1 0 0
And where the same shall exceed £500 . . . . .	2 0 0

Lease of any Mine or Minerals, or other property of a like nature, either with or without any lands, tenements or hereditaments, or heritable subjects, where any portion of the produce of such Mines or Minerals shall be reserved, to be paid in money or kind :—if it shall be stipulated that the value of such portion of the produce shall amount at least to a given sum per annum, or if such value shall be limited not to exceed a given sum per annum, to be specified in such lease, then the said ad valorem duty on leases shall be charged in respect of the highest of such sums so given or limited for any year during the term of such lease.

And where any yearly sum shall be reserved in addition to or together with such produce, relative to the yearly amount or value of which produce, there shall be no such stipulation or limitation as aforesaid, the said ad valorem duty shall be charged in respect of such yearly sum.

And where both a certain yearly sum, and also such produce relative to the yearly amount or value, of which there shall be such stipulation or limitation as aforesaid shall be reserved, the said ad valorem duty shall be charged on the aggregate of such yearly sum, and also of the highest yearly amount, or value of such produce.

### GENERAL REGULATIONS AS TO LEASES.

Where in any of the aforesaid several cases of Lease, any fine or premium, or any rent payable under any Lease, shall consist wholly or in part of corn, grain or victual, the value of such corn, grain or victual, shall be ascertained or estimated at and after any permanent rate of conversion, which the Lessee may be specially charged with, or have it in his option to pay; and if no such permanent rate of conversion shall have been stipulated thereat after the current wholesale rates of the time when such Lease is brought to be stamped, or is executed, as the case may be, and such respective values shall be deemed and taken to be the fine, premium or yearly rent, or part thereof respectively, as the case may be, in respect whereof the ad valorem duty shall be charged as aforesaid.

And where separate and distinct fines or premiums shall be paid to several Lessors being joint tenants, tenants in common, or copartners, who shall by one and the same deed or instrument, jointly or severally, demise or lease the lands, tenements, hereditaments, or heritable subjects, of which they are such joint tenants, tenants in common, or copartners; or where separate and distinct rents shall be by one and the same deed or instrument, reserved or made payable or agreed to be reserved or made payable to the Lessor, or the several Lessors being such joint tenants, tenants in common, or copartners,—the ad valorem duties shall be charged in respect of the aggregate amounts of such fines or premiums, and of such rents respectively.

And where any person having contracted for, but not having obtained a lease of any lands or other property, shall contract to sell such lands or other property, or any part thereof, or his right or interest therein or thereto, to any other person, and a lease shall accordingly be granted to such other person, the purchase money or consideration which shall be paid or given, or agreed to be paid or given, to the person immediately selling to such Lessee, shall be set forth in such lease, and such lease shall be charged as well with the

said ad valorem duty, on such purchase money or consideration, as with the duty on the purchase money or consideration, or rent paid or reserved to the Lessor.

Lease of any kind not otherwise charged—Eight shillings.

Provided always, that no ad valorem duty shall be chargeable in respect of any penal rent, or increased rent in the nature of a penal rent, reserved in any such lease as aforesaid.

LEASE.—Any assignment or surrender of a lease, upon any other occasion than a sale or mortgage—a duty equal to the ad valorem duty, with which a similar lease would be chargeable under this Act. Provided also, that no stamp duty, except the said ad valorem duty, shall be chargeable for or in respect of any lease, whether in possession, reversion, or remainder expressed to be granted in consideration of the surrender of an existing lease, and also of a sum of money.

## SCHEDULE.

## I.

Mortgage, or further charge affecting any lands, estate, or property real or personal whatsoever ;—

Also any conveyance of any lands, estate or property whatsoever, in trust to be sold or otherwise converted into money, which shall be intended only as a security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise, except where such conveyance shall be made for the benefit of creditors generally, or for the benefit of creditors specified, who shall accept the provision made for payment of their debts in full satisfaction thereof, or who shall exceed five in number.

Also any defeasance, declaration or other deed or writing for defeating or making redeemable, or explaining or qualifying any conveyance or disposition of any lands, estate or property whatsoever, which shall be apparently absolute, but intended only as a security.

Also any agreement, contract or bond, accompanied with a deposit of title deeds, for making a mortgage, or any such other security or conveyance as aforesaid, of any lands, estate or property comprised in such title deeds, or for pledging or charging the same as a security.

Where the same respectively shall be made as a security for the payment of any definite and certain sum of money, advanced or lent at the time, or previously due or owing, or forborne to be paid, being payable.

Not exceeding £100 . . . . .	£0 2 0
Exceeding £100 and not exceeding £500 . . . . .	0 4 0
Exceeding £500 and not exceeding £1000 . . . . .	0 8 0
Exceeding £1000 and not exceeding £2500 . . . . .	0 12 0
Exceeding £2500 and not exceeding £5000 . . . . .	1 0 0
Exceeding £5000 and not exceeding £7500 . . . . .	2 0 0
And for every additional £2500, or fractional part of £2500 . . . . .	} 1 0 0

And where the same respectively shall be made as a security for the repayment of money to be thereafter lent, advanced or paid, or

which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be, other than and except any sum or sums of money to be advanced for the insurance of any property comprised in such mortgage, or security against damage by fire ; or to be advanced for the insurance of any life or lives, or for the renewal of any grant or lease, upon the dropping of any life or lives, pursuant to any agreement in any deed whereby any estate or interest, held upon such life or lives shall, be granted, assigned or assumed, or whereby any annuity shall be granted or secured for such life or lives :—if the total amount of the money secured, or to be ultimately recoverable thereupon, shall be limited not to exceed a given sum—the same duty as on a mortgage for such limited sum.

And if the total amount of the money secured, or to be ultimately recoverable thereupon, shall be uncertain and without any limit, then the same shall be available as a security or charge for such an amount only of money or stock intended to be thereby secured, as the ad valorem duty denoted by any stamp or stamps thereon will extend to cover.

And where the same respectively shall be made as a security, for the transfer or retransfer of any share, in any of the Government or Parliamentary stocks or funds, or in the stock and funds of any Company or Corporation, in consideration of stock or money advanced or lent at the time, or previously due and owing, or forborne to be paid being payable—the same duty as on a mortgage, for a sum of money equal to the value of the stock or funds secured, according to the average price thereof, on the day of the date of the mortgage or other instrument aforesaid, or on either of the ten days preceding, or if there shall not have been any known sale on any such days, then on the latest day preceding on which there shall have been a known sale.

**MORTGAGE**—And where any such deed or instrument as aforesaid, shall be made respectively as a security for the payment of any rent-charge or annuity, or any sum or sums of money by way of repayment, or in satisfaction or discharge, or in redemption of any sum of money lent, advanced or paid, as or for, or in the nature of a loan intended to be repaid, satisfied, discharged or redeemed in manner aforesaid,—the same duty as on a Mortgage for the sum of money so lent, advanced or paid.



**MORTGAGE.**—Any transfer or assignment of any Mortgage, or of any such other security as aforesaid, or of the benefit thereof, or of the money or stock thereby secured—where no further sum of money or stock shall be added to the principal money or stock already secured:—if such principal money or stock already secured shall not exceed in amount or value in the whole the sum of £2,500—the same duty as on a Mortgage for the total amount or value of such principal money or stock.

And if such principal money or stock shall exceed in amount or value in the whole the sum of £2,500—One pound.

And where any further sum of money or stock shall be added to the principal money or stock already secured—the same duty as on a Mortgage for such further money or stock only.

And in every other case not hereinbefore expressly provided for such transfer, assignment or disposition shall be chargeable with the duty of one pound. Provided always, that no such deed or instrument as aforesaid, shall in any of the said several cases be chargeable with any further or other duty than is herein expressly provided, by reason of its containing any further or additional security for the payment or transfer or retransfer of such money or stock, or any interest or dividends thereon, or any new covenant, proviso, power, stipulation or agreement, or other matter whatever, in relation to such money or stock, or the interest or dividends thereon, or by reason of its containing all or any of such matters.

**MORTGAGE.**—Any deed or instrument made for the further assurance only of any estate or property which shall have been already Mortgaged, pledged or charged as a security, by any deed or instrument which shall have paid the ad valorem duty on Mortgages or bonds chargeable as aforesaid.

Also any deed or instrument made as an additional or further security for any sum or sums of money, or any share or shares of any of the stocks or funds before mentioned, which shall have been already secured by any deed or instrument, which shall have paid the said ad valorem duty on Mortgages or Bonds chargeable as aforesaid, shall be chargeable respectively with the following duties—that is to say—when the total amount or value of the money or stock already secured, and in respect whereof, the said ad valorem duty shall have

been paid shall not exceed the sum of £2,500—the same duty as on a Mortgage for the amount or value of the said money or stock.

And in any other case—one pound.

Provided always, that if any further sum of money or stock shall be added to the principal money or stock already secured, such deed or instrument for the further assurance or additional or further security, either by the Mortgagor or by any person entitled to the property mortgaged, by descent, devise, or bequest from such Mortgagor, shall be chargeable only with the ad valorem duty on Mortgages under this Act, in respect of such further sum of money or stock, in lieu of the duty aforesaid, notwithstanding that the same deed or instrument may also contain any covenant either by the Mortgagor, or any person entitled as aforesaid, proviso, power stipulation or agreement or other matter whatever, in relation to the money or stock already secured, or the interest or dividends thereon.

**MORTGAGE.**—Any reconveyance, release, surrender, discharge, or renunciation of any Mortgage, or of any other such security as aforesaid, or, of the benefit thereof, or of the money or stock thereby secured—Eight shillings.

SCHEDULE.

K.

Schedule, inventory, or catalogue of any lands, hereditaments, or of any furniture, fixtures or other goods or effects, containing the terms and conditions of any proposed sale or lease, or the conditions and regulations for the cultivation or management of any farm lands or other property leased or agreed to be leased, or containing any other matter or matters of contract or stipulation whatsoever, which shall be referred to, in or by, and be intended to be used or given in evidence, as part of, or as material to any agreement, lease, bond, deed, or other instrument, charged with any duty, but which shall be separate and distinct from, and not endorsed on, or annexed to such agreement, lease, bond, deed or other instrument—Eight shillings.

## SCHEDULE.

## I.

**SETTLEMENT.**—Any deed or instrument, whether voluntary or gratuitous, or upon any good or available consideration other than a bona fide pecuniary consideration, whereby any definite and certain principal sum or sums of money (whether charged or chargeable on lands or other hereditaments or not, or to be laid out in the purchase of lands or other hereditaments or not) or any definite and certain share or shares in any of the Government or Parliamentary stocks or funds or in the stock and funds of any Company or Corporation, shall be settled or agreed to be settled upon, or for the benefit of any person or persons either in possession or reversion, either absolutely or for life, or other partial interest, or in any other manner whatsoever:—if such sum or sums of money, or the value of such share or shares, in all or in any of the said stock or funds, or of such one or more of the said articles as shall be so settled or agreed to be settled, or both, such sum or sums of money and the value of one or more of such articles together shall not exceed in the whole £100—Four shillings.

And in all other cases One pound.

And all deeds or instruments chargeable with the said ad valorem duty which shall also contain any settlement of lands or other property, or contain any other matter or thing besides the settlement of such money or stock, shall be chargeable with such further stamp duty as any separate deed or instrument containing such settlement of lands or other property, or other matter or thing would have been chargeable with.

SCHEDULE.

M.

Warrant of Attorney (with or without a release of errors) to confess and enter up a judgement in the Supreme Court of Civil Justice, or in any other Court of Record holding pleas, where the debt or damage amounts to £2, which shall be given as a security for the payment of any sum or sums of money, or for the transfer of any share or shares in any of the Government or Parliamentary stocks or funds, or in the stock and funds of any Company or Corporation,—the same duty as on a bond for the like purpose.



# AN ACT

## To increase the number of Representatives for Victoria Town District, and to alter the Limits of the said District.

**W**HEREAS, by the Representation Act, 1859, it is amongst other things provided that Victoria Town District should return Two Members.

And whereas, it is expedient to increase the number of Members of the House of Assembly for the said District ;

And whereas, it is expedient to provide that the Limits of the Victoria Town District shall be the same as those of the City of Victoria.

Be it enacted by His Excellency The Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :

I. That that portion of "The Representation Act, 1859," which enacts that two members should be returned for Victoria Town District, is hereby repealed.

Repeal of previous Act as to number of Representatives for Victoria Town.

II. So much of the said Representation Act as enacts that the tract of land included within the circumference of a circle, whose centre is that marked "Central Point" on the official map of Victoria, of which the radius is three fourths of a mile, shall form the Electoral District of Victoria Town District, is hereby repealed.

Repeal of the Act as to the geographical limits.

Four Members  
for Victoria  
Town.

III. That at the next General Election to be held for Victoria Town District, and at all other times thereafter, there shall be Four Members returned for Victoria Town District.

The District to  
be called Victo-  
ria City.

IV. The Electoral District hitherto called The Victoria Town District, shall be hereafter known as an Electoral District by the name of the City of Victoria.

New Electoral  
District.

V. The tract of land specified in the Schedule to the Victoria Incorporation Act, 1862, or in any Schedule to any Act amending the same, shall, from and after the completion of the next annual Registration of Voters, be the Electoral District of the City of Victoria.

The existing  
Voters to be the  
Voters at any  
Election before  
the Annual  
Registration.

Provided that at any Election held previously to the next Annual Registration of Voters, the persons registered as voters at the date of the passage of this Act for the Victoria Town District, shall, notwithstanding this Act, be the Voters for a Member or Members.

Short Title.

VI. This Act may be cited as "The City of Victoria Representation Act, 1862."

Passed the House of Assembly, 12th September, 1862.

E. BOWERS DOGGETT,

Clerk of the House.

Council amendment agreed to, 4th December, 1862.

E. J. NESBITT,

Acting Clerk House of Assembly.

Passed the Council, 3d December, 1862.

JOSEPH PORTER,

Acting Clerk of Council.

Received my assent this, 12th day of December, A. D., 1862.

JAMES DOUGLAS,

Governor.



# AN ACT

## To Establish a Decimal System of Accounts in the Colony of Vancouver Island and its Dependencies.

**WHEREAS**, it is expedient to facilitate the monetary transactions of the Colony of Vancouver Island and its Dependencies by the adoption of a Decimal System of Accounts ;

Be it therefore enacted by the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its Dependencies, as follows :

I. That on and after the first day of January, One Thousand Eight Hundred and Sixty-three, the Public Accounts shall be kept in Dollars and Cents ; and all accounts to be rendered to the Government, or to any Public Office or Department in the said Colony, by any Officer or Functionary, or by any person receiving aid from the Colony, or being otherwise accountable to the Government thereof, shall be so rendered in dollars and cents.

Public accounts  
to be kept in  
Dollars and  
Cents.

II. The Pound Sterling shall be held to be equivalent to Four Dollars and Eighty-five Cents, and the aliquot parts of a Pound shall be of a proportionate value.

Equivalent  
Moneys of Ac-  
count

III. Any Sterling Coin of the weight and fineness prescribed by law for the coins of the United Kingdom, shall pass current and be a legal tender for sums in Dollars and Cents, equal, according to the proportionate value aforesaid, to their sterling value.

Sterling Coins.



Gold Coins of  
the United  
States of Ameri-  
ca.

IV. The Gold Eagle of the United States of America, coined after the Eighteenth day of January, One Thousand Eight Hundred and Thirty-seven, and prior to the date of the passage of this Act, shall pass current and be a legal tender in this Colony for Ten Dollars ; and Gold Coins of the said United States, being multiples or halves of the said Eagle, and of like date, shall pass current and be a legal tender in this Colony for proportionate sums.

Silver Coins of  
the United  
States of Ameri-  
ca.

V. The Silver Coins of the United States of America, denominated Half Dollar, Quarter Dollar, and Dime, shall pass current and be a legal tender in this Colony for Fifty Cents, Twenty-five Cents, and Ten Cents, respectively.

Proviso. Tender  
of Silver Coins  
limited.

Provided always, that Silver Coins shall not be a legal tender to the amount of more than Ten Dollars ; and the holder of Notes, or other Documents purporting to be evidence of debt, of any person or persons, or Body Corporate, to the amount of more than Ten Dollars, shall not be bound to receive more than that amount in Silver Coins in payment of such Notes or other Documents as aforesaid, if they are presented for payment at one time, although each or any of such Notes or other Documents be for a less sum than Ten Dollars.

Short Title.

VI. This Act may be cited for all purposes as "The Currency Act, 1862."

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Passed the Council, 17th November, 1862.

JOSEPH PORTER,

Acting Clerk of Council.

Passed the House of Assembly, 7th December, 1862.

E. J. NESBITT,

Acting Clerk House of Assembly.

Received my assent this, 12th day of December, A. D.. 1862.

JAMES DOUGLAS,

Governor.



# AN ACT

## To Amend the "Real Estate Tax Act, 1860."

**WHEREAS** it is expedient to amend the "Real Estate Tax Act, 1860 ;"

Be it enacted by the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :—

I. This Act may be cited for all purposes as the "Real Estate Tax Amendment Act, 1862." Short Title.

II. The "Real Estate Tax Act, 1860." is hereby repealed, save as to all taxes accrued due previous to the passage of this Act. Repeal of "Real Estate Tax Act, 1860."

III. The term "Real Estate" includes, for the purposes of this Act, all buildings, whether moveable or immoveable, erected on land, and all mines, minerals, quarries, and fossils in and under the same. Definition of Real Estate.

IV. There shall be raised, levied and collected upon all Real Estate in the Electoral Districts of the Colony of Vancouver's Island and its Dependencies, except as hereinafter mentioned, as from the 1st day of July, 1863, an annual tax of £1. per centum on the market value thereof, and to be paid for the use of Her Majesty, her heirs, and successors. One per cent. to be levied on Real Estate by Assessment.

Real Estate  
occupied.

V. *First Exception.*—All Real Estate vested in or held in trust for Her Majesty or for the public uses of the Colony, either unoccupied or occupied by some person in an official capacity.

*Second Exception.*—All property vested in any person or body corporate, in trust for or for the use of any tribe or body of Indians.

*Third Exception.*—Every place of public worship, churchyard, burying ground, public school-house, public roadway, square, town or city hall, gaol, house of correction, lock-up house, and public hospital, with the land absolutely requisite for the due enjoyment thereof.

*Fourth Exception.*—All agricultural buildings, fences and other improvements.

Permanent  
Assessor.

VI. The Governor shall, before the 1st of January next, and may immediately after the passage of this Act, and from time to time, appoint a permanent Assessor, who shall assess Real Estate for the entire Colony of Vancouver Island and its Dependencies.

The entire time  
of the Assessor  
to be devoted  
to his Duties.

VII. It shall be the duty of such Assessor to devote his entire time to the duties of his office, and the collection and adjustment of all information necessary and proper for the due execution of his duties, and to assist in the collection of the revenue.

Assessor shall  
attend the  
Court of  
Revision.

VIII. It shall be the duty of the Assessor also to attend at the sittings of the Court of Revision, and to afford all information and assistance to the said Court which may be in his power.

Assessor may  
assess Trades,  
Boats and  
Road Labor.

IX. The Assessor may also be appointed Assessor under the "Trades Licenses Amendment Act, 1862:" and in the event of a permanent Assessor being appointed by virtue of any Act to be passed in the present or any future session, for the purpose of amending the "Road Act, 1860," the said Assessor may be also appointed to fulfil such duties.

Salary,

X. The Assessor shall have an annual salary of £500, and thereout he shall defray his travelling expenses.

XI. The Assessor shall, on the 1st of January of each year, publish in one or more of the papers circulating in the Colony, and in the Government "Gazette" (when published), a notice in the following form:—

Assessor to publish a Notice requiring Return of Real Estate.

### NOTICE.

#### *Real Estate Assessment.*

All persons, owners of Real Estate in any Electoral District, are requested to make a statement in writing, according to the form A hereunto annexed, of what Real Estate they hold, and where situated; to describe such Real Estate, giving the admeasurements thereof; and to deliver such statement at the office of the Assessor of Vancouver Island and its Dependencies on or before the 1st day of February next.

#### SCHEDULE A.

Owner's Name.	Place of Residence.	Description of Property and where situated: Town or Dist.	Admeasurements.	
			No. of Block or Section.	No. of Lot.

XII. The Assessor shall, on the said 1st day of January, also post up in one or more public and convenient places in each District, a copy of the said notice. The said notice shall be published, and shall be posted up as aforesaid for a space of fourteen days from the day of issuance thereof.

Notice that the be posted.

XIII. The Assessor shall, on or before the 1st day of May, compare the statements with the information which he shall have obtained, and from the result at which he may have arrived, make out lists of all the Real Estate in the several Districts in respect of which the said tax has to be paid, specifying the locality, nature, value and extent of the Real Estate, the names of the owners thereof, and the amount of tax payable.

Assessor to make return from the Return and information he may have obtained.

XIV. The Assessor, before the completion of his roll, shall transmit by post to every person named thereon, whose place of abode is known to the said Assessor, a notice of the value at which his Real Estate has been assessed, and the amount to be paid.

A Notice of Value to be sent to each Person on the Roll.

XV. The Assessor shall attach to the Assessment Roll of each District a certificate signed by him and verified by oath or affirmation, which shall be in the form following :—

Certificate to be appended.

I do certify that I have set down in the above assessment roll all the Real Estate liable to taxation situate in the District of \_\_\_\_\_ and the true market value thereof in each case, according to the best of my information and judgment ; and I further certify that I have entered therein the names of all persons who have required their names to be entered thereon.

Assessor to deliver the Roll to the Treasurer.

XVI. The Assessor shall make out and deliver to the Treasurer of Vancouver Island the Assessment Roll, completed and added up with the certificates and affidavits attached thereto, together with a true copy thereof; and shall post up two copies thereof in alphabetical order of surnames in three or more convenient places in the District to which such assessment belongs, and to be maintained there until after the meeting of the Court of Revision.

Assessor to have free access to the Records of the Land Office.

XVII.—The Assessor shall at all reasonable times have free access to the Records of the Land Office, and the Office of Registrar-General of Real Estate, for the purpose of obtaining information.

Court of Revision. Quorum.

XVIII.—The Governor may appoint five persons to be the Court of Revision for each District. Three members of the Court of Revision shall be a quorum. The members may choose their own chairman, who shall have a casting vote in case of an equality, and a majority of those present at any meeting may decide all questions.

Treasurer to deliver Copy of the Roll to the Chairman.

XIX.—The Treasurer shall deliver a copy of the said Assessment Roll to the Chairman of the Court of Revision, on or before the 7th day of May.

Meetings of the Court.

XX.—The Court shall meet within three days after the delivery of the copy of the roll aforesaid, and shall continue their sittings, from time to time, until the business of hearing appeals presented to them is disposed of; and they shall finally decide upon such appeals, and deliver the roll as amended to the Treasurer within sixty days from their first sitting.

Oath.

XXI.—The Court or any member thereof may administer an oath to any party or witness, the wilful violation of which oath shall be punishable as perjury.

XXII.—The Court shall try all complaints with regard to wrongful assessment or omissions, and may amend the roll accordingly. Jurisdiction.

XXIII.—The proceedings for the trial of complaints shall be as follows:—Any person complaining of an error or omission, undercharge, or overcharge in respect of any land, shall personally, or by his agent, within fourteen days after the posting up of the Roll, give notice in writing to the Assessor that he considers himself aggrieved for any or all of the causes aforesaid, giving the number of the lot or section, where situated, name of the owner, and the nature of the complaint. Complaints against the Roll to give notice of Appeal.

XXIV. The Assessor shall post up in some convenient and public place within the District a list of all complaints against the Assessment Roll, with a concise description of the matter complained of, together with an announcement of the time when the Court shall be held to hear complaints. List of Complaints.

XXV. The Assessor shall also notify by post every person against whose assessment a complaint has been made, whose residence is known, of the nature of the complaint. Such list may be in the form following:— Notice to Persons complained against.

*Appeals to be heard at the Court of Revision, to be held at  
on the                      day of*

Complainant.	No. of Lot or Section.	Town or District.	Belonging to	Nature of Complaint.	Date when Court shall meet to hear complaints

XXVI. All notices sent by post by the Assessor, shall be deemed to have been sufficiently served. Service of Notice.

XXVII. The Assessor shall also advertise in one or more of the papers circulating in the Colony, and also in the Government "Gazette" (when published), the time at which the Court will hold its first sitting. Advertisement.

XXVIII. The Court, after hearing the complaints and the Assessor, and any witnesses adduced by or on behalf of either of them, shall determine the matter, and confirm or amend the roll accordingly. Confirmation on amendment of Roll.

XXIX. If either party fails to appear either in person or by an agent, the Court may proceed *ex parte*. Proceedings ex parte.

**Roll to be final.** XXX. The roll, as finally passed by the Court, and certified by them as so passed, shall bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll.

**Posting the Roll.** XXXI. The Assessment Roll as finally passed, shall, within ten days from its final passage, be posted up by the Assessor in at least three conspicuous places in each District, and the Assessor shall also publish in one of the papers and Government "Gazette" as aforesaid the places where such rolls are posted.

**Vacating Office.** XXXII. Any member of the Court of Revision, whether now or hereafter to be appointed, may resign his appointment; and any member of the said Court who shall be absent from the Colony for a fortnight, or unable from ill health to attend the sittings of the said Court for such space of time during the period in which the said Court shall be sitting, shall be deemed to have vacated his seat. The absence of a member from the sittings of the Court for the continuous space of a fortnight shall be conclusive evidence that his seat is vacated.

**Vacancies to be filled up.** XXXIII. The Governor may, from time to time, fill up any vacancies.

**Persons failing to make a Return may be assessed for the whole Lot or Section of Land placed in the Unknown List.** XXXIV. Whenever any person or persons shall fail to make a return of the Real Estate in respect of which he or they are liable to be assessed, or shall fail to make a clearly intelligible return of the same Real Estate, the Assessor may, if he is unable to obtain the information necessary to ascertain the specific Real Estate so not returned, or so unintelligibly returned, assess the whole lot or section of land (according to the official map), or any part thereof, unreturned or unintelligibly returned by any person, and all improvements and buildings thereon, to any one or more of the persons so unintelligibly returning the same, or on a list to be styled the "Unknown List," as the case may require.

**Complaint by Person to whom a whole Lot or Section is assessed.** XXXV. Any person to whom the whole of a lot or section is assessed, and any person whose Real Estate is assessed in the "Unknown List," may shew to the Court of Revision that some other person or persons should have been assessed with a part thereof, or with the improvements thereon, and the Court of Revision may order a notice to be served on such person or persons who is or are stated as being the person who should have been assessed, or left at the property so assessed, directed to him or them as the Court may deem expedient, requiring him or them to attend the Court at a day in such notice to be fixed, in order that the Assessment Roll may be modified accordingly.

XXXVI. If such person or persons shall fail to attend, or if the Court upon hearing the case so think fit, the Court may order such person or persons to be added to the Assessment Roll, and may modify the assessment of the complainant by placing a portion of the complainant's assessment against the added person or persons, or may make such other alterations in the Assessment Roll as the nature of the case may require.

Power to proceed ex parte.

XXXVII. Any person neglecting to return Real Estate in respect of which he is liable to assessment, shall be liable personally to an additional duty of 5 per cent. of the tax leviable upon the market value of such Real Estate, to be assessed, collected and paid in the same manner as the 1 per cent. tax.

Penalty on not making a Return.

XXXVIII. Such additional 5 per cent. shall also be a primary charge upon the said Real Estate in like manner, and to the same extent as is hereinafter provided with regard to the 1 per cent. tax.

Penalty to be a primary charge on the realty.

XXXIX. The person liable to pay the assessment shall be personally liable for the amount of the said assessment.

Persons liable also.

XL. The Real Estate in respect of which an assessment has been made, shall also be primarily liable for the amount assessed, and such liability shall be the first charge on the said Real Estate.

Land liable also.

XLI. All monies due under the provisions of this Act shall be paid into the Treasury, at Victoria.

Monies to be paid into the Treasury.

XLII. If the amount assessed in respect of any Real Estate be not paid into the Treasury within thirty days after the date of the publication of the roll as finally passed, an amount equivalent to 5 per cent. upon the amount due shall be paid, collected and levied in addition to the amount due; and if payment be not made in sixty days from the date of the publication aforesaid, the Sheriff shall levy the same by distress of the goods and chattels of the person liable to pay the same; and if such person cannot be found, or is not known, or in default of a sufficient distress, by the sale of so much of the Real Estate in respect of which such assessment continues either partially or entirely unpaid, as shall be approximately sufficient to pay the amount assessed, together with the five per cent aforesaid.

Mode of enforcing payment.

XLIII. The Sheriff, in effecting such sale, shall select such part of such Real Estate as he may consider most advantageous to the owner of such Real Estate to be sold first, and the owner or his agent may advise with the Sheriff upon the subject.

Selection of part by the Sheriff.



**Advertisements**

XLIV. The Sheriff shall advertise in one of the newspapers circulating in the Colony, and shall post up in six conspicuous places in each District wherein Real Estate is liable to be sold for non-payment of assessment a notice of the Real Estate liable to be sold, the hour, and day upon which he proposes to sell the same, not being less than twenty-one days from the date of such notice, and the place where he proposes to conduct such sale.

**Sale by Auction.**

XLV. Upon the day fixed for the sale aforesaid, the Sheriff shall, within two hours after the hour fixed, put the Real Estate up to auction and sell to the highest bidder sufficient of the land to pay the monies due, and the probable cost and expenses hereinafter mentioned.

**Auction may be postponed.**

XLVI. If at the time appointed for the sale no bidders appear, or bid a sum equivalent to the amount due in respect of the said assessment, and the probable costs hereinafter mentioned, the Sheriff may adjourn the sale, and so on from time to time.

**Purchaser to have a lien for one year.**

XLVII. The purchaser, until the expiration of one year, shall hold the Real Estate in fee simple, subject to the right to redeem hereinafter provided.

**Power of redemption.**

XLVIII. The owner of any Real Estate which may hereafter be sold for non-payment of taxes, or his heirs or assigns, may at any time within one year from the day of sale redeem the estate sold by paying to the Treasurer, for the use and benefit of such purchaser or his legal representatives, the sum paid by him, together with 20 per cent. thereon, and the said Treasurer's receipt shall be the evidence of redemption.

**Certificate of Redemption Monies.**

XLIX. The certificate of the Sheriff as to the amount payable for the redemption of the Real Estate so sold as aforesaid, shall be produced and delivered to the Treasurer as his authority to receive the said money.

**Purchaser's lien to cease on payment of Redemption Monies.**

L. From and after the payment to the Treasurer of the full amount of redemption money required by this Act, the said purchaser shall cease to have any further right in or to the Real Estate in question.

**Purchaser to receive Redemption Monies.**

LI. The amount so paid by the person redeeming shall be paid over by the Treasurer, on application, to the purchaser or his representatives.

**No Waste allowed.**

LII. Purchasers shall not, during the said year, commit or allow waste upon the Real Estate purchased.

LIII. The Sheriff shall, at the expiration of the said year, if no redemption has taken place, convey such Real Estate to the purchaser, whose title shall be an absolute and indefeasible estate, in fee simple, notwithstanding any irregularity or informality in such sale or the proceedings prior thereto or subsequent thereon.

Sheriff at the expiration of one year to grant the Land in fee to the Purchaser.

LIV. The Sheriff shall defray the expenses prior to and of such sale, and attendant thereon, out of the purchase money, and next the amount due in respect of said assessment, and shall pay the residue thereof into the Treasury, in trust for the person or persons to whom, as Real Estate, it shall belong.

Expenses of and attendant upon the Sale.

LV. The term "Agricultural Improvements" shall include all improvements in or upon the land, all fences, gates, barns, stables, stiles, outhouses, and labourers' dwelling-houses.

Definition of Agricultural Improvements.

Passed the House of Assembly, 23rd October, 1862.

E. BOWERS DOGGETT,  
Clerk of the House.

Council Amendments agreed, 12th December, 1862,

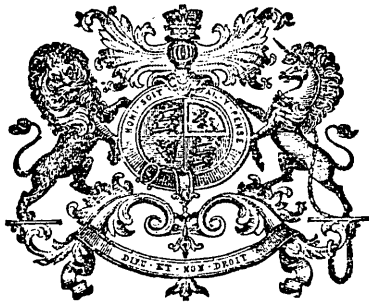
E. J. NESBITT,  
Acting Clerk of the House of Assembly.

Passed the Council, 11th December, A.D. 1862,

JOSEPH PORTER,  
Acting Clerk of the Council.

Received my assent this 17th day of December, A.D. 1862,

JAMES DOUGLAS,  
Governor.



# AN ACT

## To Repeal and Amend the Laws affecting Trade Licenses.

WHEREAS it is expedient to repeal and amend the Acts regulating Trade Licenses;

Be it enacted by the Governor, on behalf of Her Majesty, by and with the advice and consent of the Legislative Council and Assembly, as follows:—

I. That, from and after the passage of this Act, the “Trade Licenses Act, 1860,” and the “Trade Licenses Amendment Act, 1861,” are hereby repealed, save in so far as any licenses and penalties accrued, due or incurred heretofore are concerned.

‘Trade Licenses Act, 1860,’ and ‘Trade Licenses Amendment Act, 1861,’ repealed.

II. That, from and after the passage of this Act, all persons using the occupations following in the Colony of Vancouver’s Island and its dependencies shall take out an annual license, in respect of which the amounts following shall be paid in advance to and for the use of Her Majesty, her heirs and successors, as from the 1st day of July in each and every year.

Annual Licenses to be paid by persons using certain occupations.

- Barristers.  
Attorneys.** Every person enrolled as or using the business of a Barrister, Attorney or Solicitor in the Supreme Court of Civil Justice of Vancouver's Island, Ten Pounds (£10).
- Auctioneers.** Every person using the business or occupation of an Auctioneer, Fifty Pounds (£50).
- Pawabrokers.** Every person using the business or occupation of a Pawnbroker, Twenty-five Pounds (£25).
- Estate Agents.** Every person using the business or occupation of an Estate Agent, Ten Pounds (£10).
- Bankers.** Every person using the business or occupation of a Banker, Fifty Pounds (£50).
- Architects,  
Surveyors, and  
Engineers.** Every person using any of the businesses or occupations following : viz., Architect, Surveyor, Engineer, Five Pounds (£5).
- Billiard Table.** Every person keeping any Billiard Table for public use, or letting for hire any Billiard Table, Five Pounds (£5) in respect of each table let for hire or kept for public use.
- Bowling Alley  
or Rifle  
Gallery.** Every person letting for hire any Bowling Alley or Rifle Gallery, Two Pounds Ten Shillings (£2 10s.) for each Bowling Alley or Rifle Gallery.
- Traders' and  
other Licenses.** III. Every Hawker, Pedlar, or Petty Chapman, and every other trading person or persons going to other men's houses, and travelling either on foot or with horse, carrying to sell or exposing to sale any goods, wares, and merchandize, excepting vendors exclusively carrying for sale or exposing for sale fruit, fish, confectionary or pastry, a half-yearly license, of Five Pounds (£5). All Allum Makers, Bleachers, Brewers, Brokers, Brick Makers, Builders, Callenderers, Carpenters, Carriers, Cattle or Sheep Salesmen, Coach Proprietors, Cow Keepers, Dyers, Fullers, Lime Burners, Livery Stable Keepers, Millers, Packers, Printers, Ship Owners, Victuallers, Warehousemen, Wharfingers, Washermen or Washerwomen, persons using the trade or profession of a Scrivener, receiving other men's monies or estates into their trust or custody, persons insuring ships or their freights or other matters against perils of the sea, and all persons

using the trade of merchandize, by way of bargaining, exchange bartering, commission, consignment, or otherwise, in gross or by retail, and all persons who either for themselves, or as Factors or Agents for others, seek their living by buying or selling, or buying or letting for hire, or by the workmanship of goods and commodities, shall pay to the use of Her Majesty, her heirs and successors, half-yearly, an assessment upon the actual amount of the money or equivalent for money which during the six callendar months next preceding the return hereinafter mentioned, shall have been received by him or any person in his behalf in respect of sales, barthers, or other transactions connected with his business on any account whatsoever, after the Scale marked A in the Schedule hereto.

IV. Such assessment shall be ascertained by a return delivered by each person to the Assessor at the Treasury, on the 1st day of January and the 1st day of July in every year. Such return shall be in the form marked B in the Schedule hereto.

Assessment to be ascertained by a return.

V. Every person making such return as last aforesaid shall fill in the same with a correct statement of the actual amount of the money or equivalent of money which during the six calendar months next preceding the return shall have been received by him, or by any other person in his behalf, in respect of sales, barthers or other transactions connected with his business, such return to be made of the actual and gross amount, without any deduction whatsoever.

Return to state the amount of money or equivalent for money received by Traders during the last six months.

VI. Provided that no Farmer, Grazier, Market Gardener, Common Laborer, or Workman for Hire, having his permanent place of business in Vancouver's Island, Receiver-General of the Taxes, or Member of or Subscriber to any Incorporate, Commercial, or Trading Company established by Charter or Act of Parliament, shall individually be deemed as such a trader, to be liable to make any return, as aforesaid.

Saving of Farmers and Labourers.

VII. All persons using the Trade of Merchandize, by way of Bargaining, Bartering, Commission, Consignment, or otherwise, in gross or by retail, and all persons who either for themselves or as Agents or Factors for others, seek their living by buying and selling, or buying or letting for hire, or by the workmanship of goods and commodities, and who shall not have some fixed place of business within the Colony used for the conduct of such trade, and who are

Casual Traders.

hereinafter described as "Casual Traders," shall pay to the use of Her Majesty, her heirs and successors, a half-yearly license of Five Pounds, and shall be entitled to a license in the form marked C in the said Schedule.

**Assessor.**

VIII. The Assessor appointed under the "One per Cent. Tax Act, 1862," shall be the Assessor under this Act.

**Assessor to make Lists of Persons liable to pay a Trade License under clause.**

IX. The Assessor shall, within twenty-one days after the day appointed for the receipt of the said returns, make out a list of the persons who shall have made such returns, arranging their names in alphabetical order, and stating the place of business of each said person and the amount at which he shall have returned his said sales, barter, or other transactions in the form marked D in the said Schedule, and shall add thereto the names of any persons whom he may think liable to pay a license who have not made any return, and shall specify the amount of license which he believes any such person added to the list should pay, and the amount of license payable by each person originally returned on the list.

**Lists to be exhibited.**

X. The Assessor shall, upon the completion of the said list publish and exhibit the same at the Post Office, Victoria, and at such other public and conspicuous places as he may select in every locality where any person placed on the said list may have his place of business.

**Notices of amounts of Assessments to be sent to each Person whose place of business or abode is known.**

XI. The Assessor, before the completion of the rolls, shall leave at the place of abode or business of every party named thereon, and resident or domiciled or having a place of business within the Colony, and shall transmit by post to every non-resident named thereon whose place of abode is known to the said Assessor, a notice of the amount at which he has been assessed.

**Verification by the Assessor.**

XII. The Assessor shall attach to the Assessment Roll, when complete, a certificate signed by him, and verified by oath or affirmation, which shall be in the form following:—

I do certify that I have set down in the above Assessment Roll all the persons liable to pay trading licenses, and the true amount thereof in each case according to the best of my information and judgment, and that I have not entered the name of any person whom I do not truly believe to be liable, nor omitted any person whom I believe to be so liable."

XIII. The Assessor shall deliver forthwith to the Treasurer the Assessment Roll, completed and arranged in alphabetical order of surnames, with the certificates attached; and the said Assessor shall thereupon make true copies thereof, and publish the same by posting them up in not less than three convenient and public places in the district to which such Assessment Roll belongs and to be retained there until after the meeting of the Court of Revision.

Roll to be delivered to Treasurer and exhibited.

XIV. The Governor may, from time to time, appoint Three or more persons to be the Court of Revision for each district wherein any person is assessable, such appointment to be of effect One year, unless the person appointed resign or vacate his appointment.

Court of Revision to be appointed by the Governor.

XV. The Court (three members of which shall form a quorum) may be summoned to meet at any time by the Governor, and may adjourn from time to time as occasion may require.

Meetings of the Court of Revision.

XVI. The Court or any member thereof may administer an oath to any party or witness, and the wilful violation of any such oath shall be punishable as perjury.

Oaths.

XVII. The Court shall try all complaints in regard to persons being wrongfully placed upon or omitted from the Assessment Roll, or being assessed at too high or too low a rate.

Trial by Court of Complaint.

XVIII. All the duties of the Court of Revision which relate to the matters aforesaid shall be completed and the Roll finally revised by the Court within Fourteen days after the first meeting of the Court.

Completion of the Roll.

XIX. The proceedings for the trial of complaints shall be as follows:—

Procedure.

XX. Any person complaining of an error, omission, undercharge or overcharge, by the Assessor, either with regard to himself or any other person on the list, shall personally or by his agent, within seven days after the posting up of the roll, give notice in writing to the Assessor that he considers himself aggrieved for any of the causes aforesaid.

Notice of Complaint to Assessor.

XXI. If any person assessed complains of the assessment or omission of any other person, he shall within Three days after the posting of a copy of the roll in manner aforesaid, give notice in writing to such person and to the Assessor of his intention to object.

Notice of Complaint to Person whose Assessment is complained against.

List of Com-  
plaints to be  
published.

XXII. The Assessor shall post up in some convenient and public place within the district a list of all complaints against the Assessor's return, with a concise description of the matter complained against, together with an announcement of the time when the Court will be held to hear complaints. Such list may be in the form in the Schedule marked I.

The Assessor to  
advertise the  
sitting of the  
Court of  
Revision.

XXIII. The Assessor shall advertise in one of the papers circulating in the Colony, and in the Government "Gazette" (when published) the time at which the Court will hold its first sitting.

Power to  
determine the  
question raised  
given to the  
Court.

XXIV. The Court, after hearing upon oath the complainant and the Assessor, and any witnesses adduced by or on behalf of either of them, shall determine the matter, and confirm or amend the roll accordingly.

If person  
interested  
absent, pro-  
ceedings to be  
ex parte.

Roll when  
revised to be  
final.

XXV. If either party fail to appear, in person or by an agent, the Court may proceed *ex parte*.

XXVI. The roll, as finally passed by the Court, and certified by them as so passed, shall bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll.

Roll as passed  
to be pub-  
lished.

XXVII. The Assessment Roll as finally passed shall, within seven days from its final passage, be posted up by the Assessor in at least six conspicuous places in each district in which any person is assessed, and shall also be published in the Government "Gazette" (when published), and notice thereof shall be published in one or more newspapers as aforesaid.

Amount of  
Assessment to  
be paid into  
the Treasury  
within ten days

XXVIII. Every person assessed in the Assessment Roll as finally passed shall, within ten days after the final passage thereof pay the amount set opposite his name in such Assessment Roll into the Treasury.

In default,  
distress.

XXIX. If the amount so assessed be not paid into the Treasury within such ten days, it shall be lawful for the Treasurer to authorize the Sheriff by a warrant under his hand and seal to levy the same by distress of the goods and chattels of the person liable to pay the same, and also the reasonable costs, not exceeding Five Pounds, of such levy, and shall pay the same into the Treasury for the benefit of the general revenue, less the amount of the actual expense incurred by the Sheriff.



XXX. Any person using any business or occupation specified in the 2nd section of this Act, shall obtain a license from the Treasury upon payment of the proper amount of license. Such license shall be in the form marked E in the Schedule. Any person using any business or occupation specified in the 3rd section of this Act, without having taken out a license as aforesaid shall be liable to a penalty of not more than Fifty Pounds, to be recovered in a summary way before any Justice of the Peace.

Penalty for not  
taking out a  
License.

XXXI. A license in the form marked G in the said Schedule shall be granted to every Hawker, Pedlar, or Petty Chapman, on payment of his license.

XXXII. Every person carrying goods, wares or merchandize, excepting vendors of fruit, fish, confectionary, or pastry, to sell or expose the same for sale at other men's houses, who cannot, or refuses, or neglects to produce his license to any person calling upon him so to do, shall be liable to a penalty not exceeding Twenty Pounds, to be recovered before any Magistrate in a summary way.

XXXIII Every person, upon payment of the amount of his assessment shall be entitled to receive from the Treasurer a license in the form marked H in the Schedule and which shall entitle him or her to trade in the Colony for the current half-year; and any person who shall after the expiration of the time for payment of the said assessment use any of the businesses or occupations aforesaid, without having obtained a license for the current half-year, shall be also liable to a penalty not exceeding £50, to be recovered as aforesaid. Provided always that Barristers, Attorneys, Solicitors, Architects, Surveyors, or Engineers, commencing business for the first time in the Colony, may for the unexpired portion of the first year, take out a license at half the rates charged upon Barristers, Attorneys, or Solicitors, Architects, Surveyors, or Engineers, by the second section of this Act.

XXXIV. Any person desirous of using any of the trades or occupations specified in the 3rd section of this Act, who shall not have previously used any of such trades and occupations shall, before doing so, take out a half-yearly license at the lowest amount in the Schedule contained.

Licenses on  
Persons  
commencing  
business.

Act not to extend to Dealers by Retail in Liquors.

XXXV. Nothing in this Act shall be deemed to extend to any person taking out a retail liquor license, nor shall any persons who pay a wholesale liquor license be required to include in their returns the amounts received for the sale of liquors.

License to be taken out by Persons conducting the business.

XXXVI. Whenever any person not resident in the Colony shall use any business or occupation in respect whereof he is hereby rendered liable to take out any license or make any return as aforesaid, the return and license may be respectively made and taken out by any person conducting, managing or being concerned in the management or conduct of such business, and whenever any person shall conduct, manage or be concerned in the management or conduct of any business in the absence of the proprietors of such business, the persons so conducting or managing or being concerned in the management or conduct of such business, shall be liable to the penalties as aforesaid in default of payment.

Auctioneer's License.

XXXVII. All persons selling goods, merchandize, or merchantable commodities by public auction shall, on the 31st of January and the 31st of July in each and every year, make a separate and distinct return to the Assessor at the Treasury of the amount of money or equivalent for money received by them during the past half-year ending on the 31st of December and the 30th of June respectively, in respect of the goods, merchandize or commodities sold by them by auction, in the form marked J in the said Schedule, and shall pay into the Treasury an amount equivalent to one-fourth of 1 per cent. upon the amount so received, the first return to be made on the 31st day of July, 1863.

Oath.

XXXVIII. Every person making any such return as last aforesaid, may be required to appear before the Police Magistrate and to verify the return made by him of monies so received as aforesaid by an oath or affirmation in the form marked K in the said Schedule, and to be administered, to him by the said Magistrate; and the wilful violation of any such oath shall be punishable as perjury.

Penalty for not making a Return.

XXXIX. Every person bound to make a return under this Act, and failing so to do shall be liable to a penalty not exceeding the sum of £20, to be recovered in a summary manner before any Justice of the Peace.

Passed the House of Assembly, 28th October, 1862.

E. BOWERS DOGGETT,  
Clerk of the House.

Passed the Council 11th December. A.D., 1862, with amendments.

JOSEPH PORTER,  
Acting Clerk of the Council.

Council Amendments agreed, 12th December, 1862,

E. J. NESBITT,  
Acting Clerk of the House of Assembly.

Received my assent this 17th day of December, A.D., 1862,

JAMES DOUGLAS,  
Governor.

# SCHEDULE.

## FORM A.

	£	s.	d.
Under, £100, Half-yearly .....	1	0	0
100 and under £250 .....	1	10	0
250     "     500 .....	2	0	0
500     "     1,000 .....	3	10	0
1,000   "     2,500 .....	6	0	0
2,500   "     5,000 .....	9	0	0
5,000   "    10,000 .....	15	0	0
10,000  "    20,000 .....	25	0	0
20,000  "    30,000 .....	35	0	0
30,000  "    40,000 .....	45	0	0
40,000  "    50,000 .....	55	0	0
Above .....	60	0	0

FORM B.

Return of Transactions of  
carrying on business at

Name.	Character of Business.	Place or Places where carried on.	Amount of Transactions during six months ending day of	Amount of License to be paid.

FORM C.

*Casual Trader's License.*

Received of A. B. the sum of £                      , for a Casual Trader's  
License, for the half-year ending the                      day of

FORM D.

Name.	Place of Business.	Amount Returned.	Amount Payable.	





FORM G.

*“ Trade Licenses Amendment Act, 1862.”*

HAWKER'S LICENSE.

HALF-YEARLY.

Received of A. B. the sum of \_\_\_\_\_, being the amount  
of his Hawker's License for the half-year ending the \_\_\_\_\_ day  
of \_\_\_\_\_, and by virtue of which payment he is  
entitled to trade as a Hawker.



FORM I.

Name of Party complained against.	Name of Complainant.	Character of Complaint.

N.B.—The Court of Revision will sit on \_\_\_\_\_ day  
of \_\_\_\_\_, at \_\_\_\_\_, at the hour  
of \_\_\_\_\_

## FORM J.

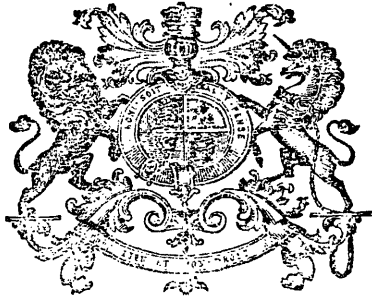
*"Trade Licenses Amendment Act, 1862."*

## AUCTIONEERS' LICENSE.

Name of Auctioneer.	Amount of Monies or Equivalents received on account of Goods sold at auction during the half-year ending the        day of	Amount payable in respect of $\frac{1}{4}$ of 1 per cent. on the same.

FORM K.

I, A. B., make oath and say (or do solemnly affirm) that I have in my return made, in pursuance of the clause of the "Trade Licenses Amendment Act, 1862," truly and fully set down all monies, or equivalent for money, received by me in respect of Goods, Merchandize, or Merchantable Articles, sold by me for other persons between the  
day of                      and the                      day of



# AN ACT

## For the Regulation of the Harbors of Vancouver Island.

WHEREAS it is necessary to make regulations for and to prevent the commission of nuisances in the Harbors of Vancouver Island ;

Be it therefore enacted by the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :—

I. The Harbor Master of every Harbor or Port in the Colony of Vancouver Island, when appointed, shall give directions for regulating the time at which, and the manner in which, every vessel shall enter into, go out of, or be in or at any Harbor, Pier, or Wharf within the jurisdiction of such Harbor Master, and the position, mooring or unmooring, placing and removing, of every vessel whilst therein, for removing Unservicable Vessels and other obstructions from the Harbor, Pier or Wharf and keeping the same clear, and for regulating the use of Fires and Lights within or upon the vessels in the Harbor or in or at any Pier or Wharf.

Harbor Master  
to give  
directions.

II. The Master of every vessel within any Harbor or at any Pier or Wharf shall regulate such vessel according to the directions of the Harbor Master, made in conformity with this Act ; and any Master or other person in charge of any vessel who, after notice of any such direction by the Harbor Master served upon him, shall not forthwith regulate such vessel according to such directions, shall be liable to a penalty of not less than Five Pounds and not exceeding Twenty Pounds.

Penalty for not  
complying with  
Harbor  
Master's  
directions.

Charges incurred by Harbor Master may be levied by distress.

III. In the event of the Harbor Master not finding the Master or Officer in charge of any vessel on board to obey his instructions when the service is required without delay, or in the event of such Master or other person neglecting to satisfactorily conform to such directions, it shall be lawful for the said Harbor Master or any person acting under his authority to employ a sufficient number of persons to perform the required service and to recover the amount of the same from the Owner or Master of such vessel in a summary way before any Justice of the Peace, and in case of refusal or neglect of payment of such charges for the space of seven days after the award made, the Harbor Master may levy such charges by distress and sale of such vessel or the tackle or furniture thereof, and the said Justice shall issue his warrant accordingly. Provided that the levy aforesaid shall in nowise affect any penalties to which such Master or other person shall have rendered himself liable.

Shoot to be attached to vessel discharging ballast &c.

IV. Every Master or person in charge of any vessel previously to loading, or unloading, or discharging ballast, coals, cinders, stones, bricks, tiles or any other loose matter of a like nature, shall be and is hereby required to fasten canvas, or cloth, or a shoot to the vessel, extending to the wharf, quay or vessel, to or from which such ballast, coals, cinders, stones, bricks, tiles or other loose material shall be conveyed so as to prevent any part thereof from dropping into the Harbour, and shall place the same at the distance of six feet at least from the edge of every Quay or Wharf on which the same shall be placed to be loaded or discharged, and in default of so doing every such Master or other person shall be liable for every such offence to a penalty not exceeding Twenty Pounds.

Combustibles to be removed from Wharves &c.

V. Every person being the owner of or having the charge of any tar, pitch, resin, spirituous liquors, turpentine, oil, gunpowder, or other combustible thing which shall be upon any Quay or Wharf, or on the deck of any vessel within any Harbor, or at or near any Wharf or Pier, shall cause the same to be removed to a place of safety or otherwise secured or rendered safe within two hours after being required so to do in writing, signed by the Harbor Master, and if he fail so to do shall be liable to a penalty not exceeding Five Pounds for every hour such combustible thing shall remain in any such place aforesaid after the expiration of two hours from the service of such notice.

- VI. Every person who shall throw or put any ballast, earth, stones, ashes, rubbish or other material into any Harbor, or shall knowingly permit the same to be so thrown or put, shall, unless he shall have obtained permission in that behalf in writing under the hand of the Governor for the time being, be liable to a penalty not exceeding Fifty Pounds for every such offence, and on such offence being proved one-half of the said penalty may, at the discretion of the Justice before whom the complaint shall be made, be paid to the informer or informers thereof.
- Penalty on persons throwing ballast, &c., into any Harbor.
- VII. If any person shall remove or wilfully or through negligence injure or destroy any buoy, beacon, land or sea mark used for the convenience of navigation, he shall for every such offence be liable to a penalty not exceeding Twenty Pounds.
- Penalty of £20 on any person removing or injuring, any buoy, land or sea mark.
- VIII. No Master or other person in charge of any vessel in any Harbor shall fire or cause to be fired any cannon or gun without the permission of the said Harbor Master, except steamers employed for the carriage of mail or passengers, ships belonging to Her Majesty or to the Government of any Foreign Nation, and any person so offending shall be liable to a penalty not exceeding Five Pounds.
- Penalty for firing cannons or guns in any Harbor without permission.
- IX. No Master, Commander or Pilot, having charge of any vessel or ship shall moor any such vessel or ship to any buoy or beacon, not being a mooring buoy or beacon, or in any manner hang on to such buoy or beacon not being a mooring buoy or beacon, under a penalty not exceeding Twenty Pounds
- Penalty on Master, of mooring to other than a mooring buoy or beacon.
- X. Every Master, Commander, Pilot or other person having charge of any vessel or ship, shall when required so to do by the said Harbor Master or by any person acting under his authority, peak their yards, place sprit-sail yard fore and aft, run jib-boom in, get their anchors on the fore-castle deck, rig in main and mizen booms and stern and quarter davits.
- Masters and others to obey Harbor Master's instructions.
- XI. No Master, Commander, Pilot or other person in charge of any vessel or ship shall be allowed to smoke any such vessel or ship for rats or vermin, without the authority of the said Harbor Master.
- No vessel to be smoked for rats, &c., without permission.
- XII. No pitch, tar or other combustible matter shall be heated or melted on board of any vessel or ship or on the Wharves, within the precincts of any of the Harbors of Vancouver's Island, by any
- Combustibles not to be heated or melted on vessels or wharves without permission.



Master, Commander or Pilot in charge of any vessel or ship without the consent of the Harbor Master.

Persons not to interfere with the fastenings of vessels without authority.

XIII. No person or persons shall let go, cut or unfasten any rope, chain or other fastening to or from any vessel or buoy, anchor, mooring dolphin or wharf, or other place connected with any ship or vessel in any of the Harbors of Vancouver's Island, unless authorized so to do by the said Harbor Master or by some persons acting under his orders, or by the Pilot, Master, or Commander of any vessel or ship which may be in the act of mooring, unmooring, or removing.

Boats, lighters, &c., not to be in the way of vessels.

XIV. No boats, lighters or other craft shall be permitted to be in places where they may injure vessels or interfere with mooring, unmooring or removal or navigation of vessels.

Harbor Master not to be impeded in the execution of his duties.

XV. Masters, Commanders or Crews of vessels or ships shall not impede by word or act the said Harbor Master or any person acting under his orders, or in the execution of their duties.

Fines and penalties, how recoverable.

XVI. All fines and penalties imposed by this Act may be recovered in a summary manner before any Justice of the Peace.

Citation of Act.

This Act may be cited as the "Harbor Regulation Act, 1863."

Read a third time and passed the House of Assembly, the 6th day of February, A. D., 1863.

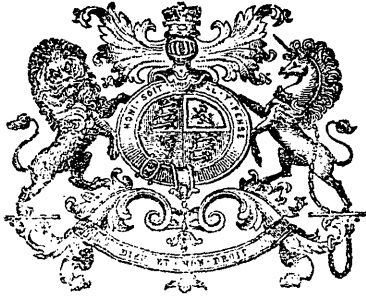
EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Read a third time and passed the Council, the 13th day of February, A. D., 1863.

R. FINLAYSON,  
President.

Received my assent this 16th day of February, A. D., 1863.

JAMES DOUGLAS,  
Governor.



# AN ACT

## **For consolidating in one Act certain provisions usually inserted in Acts authorizing the taking of Lands for undertakings of a Public nature.**

WHEREAS It is expedient to establish certain conditions and provisions upon and in accordance with which Land required for undertakings or works of a public nature may be acquired and the manner of obtaining compensation for the same.

And whereas by an Act passed in the Imperial Parliament in the eighth year of the reign of Her present Majesty, and entitled "The Land Clauses Consolidation Act, 1845," the provisions usually introduced into Acts of Parliament relative to the acquisition of lands required for undertakings or works of a public nature were comprised in one general Act, and it was by the said Act enacted that the said Land Clauses Consolidation Act, 1845, should apply to every undertaking authorized by any Act which should be thereafter passed and which should authorize the purchase or taking of lands for such undertaking, and that the said Land Clauses Consolidation Act, 1845, should be incorporated with such Act. And it was also enacted that

all the clauses and provisions of the said Land Clauses Consolidation Act, 1845, (save so far as they should be expressly varied or excepted by any such Act) should apply to the undertaking authorized thereby so far as the same should be applicable to such undertaking and should as well as the clauses and provisions of every other Act which should be incorporated with such Act form part of such Act and be construed together therewith as forming one Act.

And whereas it is expedient that the Land Clauses Consolidation Act, 1845, should apply to undertakings or works of a public nature in Vancouver Island and its dependencies, save where such Land Clauses Consolidation Act is inapplicable from the difference of local circumstances.

Be it therefore enacted by His Excellency the Governor on Her Majesty's behalf by and with the advice and consent of the Legislative Council and Assembly, as follows :—

Application of  
Land Clauses  
Consolidation  
Act, 1845.

I. That the Land Clauses Consolidation Act, 1845, as modified by the provisions hereinafter contained, shall apply to any undertaking authorized by any Act which shall be hereafter passed by the Legislature of Vancouver Island and its Dependencies, and which shall authorise the purchase or taking of lands for such undertaking, and this Act shall be incorporated with such Act and all the clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorized thereby so far as the same shall be applicable to such undertaking and shall, as well as all the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

Definitions  
not to apply.

II. The definitions of "Superior Courts," "County," "the Sheriff," "the Clerk of the Peace," "Justices," and the "Bank," given in the third section of the Land Clauses Consolidation Act, 1845, shall not apply.

The eighth  
clause of the  
Act not to  
apply.

III. The eighth clause of the Land Clauses Consolidation Act shall not apply.

Monies to be  
deposited in  
the Treasury in  
lieu of the  
Bank.

IV. All monies directed to be deposited in the Bank by the said Act shall be deposited in the Treasury, in lieu of being deposited in

the Bank specified in the said Act, and the Treasurer shall perform all the duties and functions directed to be performed by the Cashier of the Bank in the said Act.

V. The approbation mentioned in the fifteenth clause of the Land Clauses Consolidation Act, 1845, to be given by the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland shall not be required, but in lieu thereof the approbation of the Governor for the time being of Vancouver Island and its Dependencies shall be required.

The Governor to approve in lieu of the Commissioners of the Treasury.

VI. The notices mentioned in the nineteenth section of the Land Clauses Consolidation Act, 1845, may be left with the occupier of the lands therein mentioned in case any of the parties therein referred to shall be absent from the Colony or cannot be found after diligent enquiry.

Notices with whom to be left.

VII. The power vested by the twenty-eighth section of the said Act in the Board of Trade to nominate an umpire shall in any case in which a Railway or Water Company, or company for the formation of a Cemetery shall be one party to the arbitration be vested in the Chief Justice for the time being.

Chief Justice to nominate Umpire in lieu of the Board of Trade.

VIII. The thirty-ninth section of the said Act shall not apply, but in lieu thereof the section following.

The Thirty ninth Section not to apply.

IX. In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury, the promoters of the undertaking shall issue their warrant to the Sheriff requiring him to summon a jury for that purpose, and such warrant shall be under the common seal of the promoters of the undertaking if they be a corporation, or if they be not a corporation under the hands and seals of such promoters or any two of them; and if such Sheriff be interested in the matter in dispute such application shall be made to some person to be nominated *pro hac vice* in that behalf by the Chief Justice, who shall not be interested in the matter in dispute, and such person when nominated shall fulfil all the functions delegated to the Sheriff by the Land Clauses Consolidation Act, 1845.

Juries how to be summoned in cases of disputed compensation.

Verdict and Judgment mentioned in Fiftieth section of the said Act shall be kept by Registrar of Supreme Court.

X. The verdict and judgment mentioned in the fiftieth section of said Act to be "kept by the Clerk of the Peace among the records of the General or Quarter Sessions of the County in which the lands or any part thereof shall be situate in respect of which such purchase money, or compensation shall have been awarded," shall be kept by the Registrar of the Supreme Court of Civil Justice, and such verdicts and judgments shall be deemed records.

Taxation of Costs.

XI. The person whose duty it shall be to settle the costs of any inquiry referred to in the fifty-second section of the said Act, or to tax any costs directed to be taxed under the eighty-third section of this Act shall be the person for the time being acting as Taxing Master in the Supreme Court of Civil Justice, in lieu of "one of the Masters of the Court of Queen's Bench of England or Ireland" mentioned in the said section.

The rate of Interest payable under clause eighty five to be twelve per cent. per annum in lieu of Five

XII. The rate of interest payable under clause eighty-five of the Land Clauses Consolidation Act, 1845, shall be twelve per cent. per annum, instead of five per cent. per annum.

Surveyor to be appointed to estimate compensation where owner is absent.

XIII. The power given to two Justices to nominate an able practical Surveyor to determine the value of land and the compensation to be paid for any permanent injury to land of any party who by reason of his absence from the Kingdom is prevented from treating is hereby extended to the case of any person absent from Vancouver Island and its Dependencies, or the case of any person who cannot, after diligent enquiry, be found; or who shall not appear at the time appointed for the enquiry before the jury, as therein before provided for.

Such Surveyor to be appointed on satisfactory proof to two Justices that owner is absent.

XIV. The nomination of an able practical Surveyor to be made by two Justices, in the fifty-ninth section mentioned, shall be made upon such proof as shall be satisfactory to them that any such party has failed to appear on such enquiry before a jury as aforesaid, after due notice to him for that purpose.

Monies to be paid into the Treasury.

XV. All monies directed by the said Act to be paid into the Bank to the account of the Accountant General shall be paid into the Treasury to the account of the Registrar of the Supreme Court to be placed to the account there of the said Registrar *ex parte* the parties mentioned in the said Act, in lieu of being paid into the Bank to the account of the Accountant General and shall not be invested until otherwise provided by some Acts which may be passed in the present or any future session of Parliament.

XVI. All orders, powers and discretions of the Court of Chancery, in England, the Court of Exchequer in Ireland, mentioned or referred to in the said Act may be made by the said Supreme Court of Civil Justice.

Orders,  
Powers, &c.,  
to be made by  
Supreme Court  
Civil Justice.

XVII. The sections 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107 shall not apply.

Sections not  
to apply.

XVIII. The one hundred and thirty-third clause shall not apply, and in lieu thereof it is enacted :

The 133d clause  
not to apply.

XIX. That if the promoters of the undertaking become possessed by virtue of this, or the special Act, or any Act incorporated therewith, of any lands charged with any tax rate or assessment whatsoever, they shall from time to time until the works shall be completed and assessed, be liable to make good the deficiency in the several assessments by reason of such lands being taken up or used for the purposes of the works.

Deficiency in  
Assessments by  
reason of lands  
being taken up  
to be made  
good.

XX. The one hundred and forty-eighth, one hundred and fiftieth and one hundred and fifty-second clauses shall not apply.

Clauses not to  
apply.

XXI. The power of appeal given by the one hundred and forty-sixth section shall not apply, but any party who shall feel aggrieved, as in the said section mentioned, may appeal to the Chief Justice at the next Assizes, but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal should be brought, nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice, duly to prosecute such appeal and to abide the order of the Court thereon.

Appeal to be  
made to the  
Chief Justice.

XXII. Where any land reserved for Government or other purposes may be required by the promoters of any undertaking, the same shall not be taken save with the consent of the Governor for the time being, who is hereby authorized to permit such promoters to acquire such land on such terms as he may think proper, and to execute such instruments under his hand and the seal of the Colony as may be necessary for that purpose.

Government  
Reserve Land.

This Act may be cited as the "Vancouver Island Land Clauses Consolidation Act, 1863."

Citation of Act

[6]

Read a third time and passed the Council, the eleventh day of February, A.D., 1863.

RODK. FINLAYSON,  
President.

Read a third time and passed the House of Assembly, the twentieth day of February, A.D., 1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Received my assent the twenty-fifth day of February, A. D., 1863.

JAMES DOUGLAS,  
Governor.



# AN ACT

## **For consolidating in one Act certain provisions usually inserted in Acts authorizing the taking of Lands for undertakings of a Public nature.**

WHEREAS It is expedient to establish certain conditions and provisions upon and in accordance with which Land required for undertakings or works of a public nature may be acquired and the manner of obtaining compensation for the same.

And whereas by an Act passed in the Imperial Parliament in the eighth year of the reign of Her present Majesty, and entitled "The Land Clauses Consolidation Act, 1845," the provisions usually introduced into Acts of Parliament relative to the acquisition of lands required for undertakings or works of a public nature were comprised in one general Act, and it was by the said Act enacted that the said Land Clauses Consolidation Act, 1845, should apply to every undertaking authorized by any Act which should be thereafter passed and which should authorize the purchase or taking of lands for such undertaking, and that the said Land Clauses Consolidation Act, 1845, should be incorporated with such Act. And it was also enacted that



all the clauses and provisions of the said Land Clauses Consolidation Act, 1845, (save so far as they should be expressly varied or excepted by any such Act) should apply to the undertaking authorized thereby so far as the same should be applicable to such undertaking and should as well as the clauses and provisions of every other Act which should be incorporated with such Act form part of such Act and be construed together therewith as forming one Act.

And whereas it is expedient that the Land Clauses Consolidation Act, 1845, should apply to undertakings or works of a public nature in Vancouver Island and its dependencies, save where such Land Clauses Consolidation Act is inapplicable from the difference of local circumstances.

Be it therefore enacted by His Excellency the Governor on Her Majesty's behalf by and with the advice and consent of the Legislative Council and Assembly, as follows:—

**Application of  
Land Clauses  
Consolidation  
Act, 1845.**

I. That the Land Clauses Consolidation Act, 1845, as modified by the provisions hereinafter contained, shall apply to any undertaking authorized by any Act which shall be hereafter passed by the Legislature of Vancouver Island and its Dependencies, and which shall authorise the purchase or taking of lands for such undertaking, and this Act shall be incorporated with such Act and all the clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorized thereby so far as the same shall be applicable to such undertaking and shall, as well as all the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

**Definitions  
not to apply.**

II. The definitions of "Superior Courts," "County," "the Sheriff," "the Clerk of the Peace," "Justices," and the "Bank," given in the third section of the Land Clauses Consolidation Act, 1845, shall not apply.

**The eight  
clause of the  
Act not to  
apply.**

III. The eighth clause of the Land Clauses Consolidation Act shall not apply.

**Monies to be  
deposited in  
the Treasury in  
lieu of the  
Bank.**

IV. All monies directed to be deposited in the Bank by the said Act shall be deposited in the Treasury, in lieu of being deposited in

the Bank specified in the said Act, and the Treasurer shall perform all the duties and functions directed to be performed by the Cashier of the Bank in the said Act.

V. The approbation mentioned in the fifteenth clause of the Land Clauses Consolidation Act, 1845, to be given by the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland shall not be required, but in lieu thereof the approbation of the Governor for the time being of Vancouver Island and its Dependencies shall be required.

The Governor to approve in lieu of the Commissioners of the Treasury.

VI. The notices mentioned in the nineteenth section of the Land Clauses Consolidation Act, 1845, may be left with the occupier of the lands therein mentioned in case any of the parties therein referred to shall be absent from the Colony or cannot be found after diligent enquiry.

Notices with whom to be left.

VII. The power vested by the twenty-eighth section of the said Act in the Board of Trade to nominate an umpire shall in any case in which a Railway or Water Company, or company for the formation of a Cemetery shall be one party to the arbitration be vested in the Chief Justice for the time being.

Chief Justice to nominate Umpire in lieu of the Board of Trade.

VIII. The thirty-ninth section of the said Act shall not apply, but in lieu thereof the section following.

The Thirty ninth Section not to apply.

IX. In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury, the promoters of the undertaking shall issue their warrant to the Sheriff requiring him to summon a jury for that purpose, and such warrant shall be under the common seal of the promoters of the undertaking if they be a corporation, or if they be not a corporation under the hands and seals of such promoters or any two of them ; and if such Sheriff be interested in the matter in dispute such application shall be made to some person to be nominated *pro hac vice* in that behalf by the Chief Justice, who shall not be interested in the matter in dispute, and such person when nominated shall fulfil all the functions delegated to the Sheriff by the Land Clauses Consolidation Act, 1845.

Juries how to be summoned in cases of disputed compensation.

Verdict and Judgment mentioned in Fiftieth section of the said Act shall be kept by Registrar of Supreme Court.

X. The verdict and judgment mentioned in the fiftieth section of said Act to be "kept by the Clerk of the Peace among the records of the General or Quarter Sessions of the County in which the lands or any part thereof shall be situate in respect of which such purchase money, or compensation shall have been awarded," shall be kept by the Registrar of the Supreme Court of Civil Justice, and such verdicts and judgments shall be deemed records.

Taxation of Costs.

XI. The person whose duty it shall be to settle the costs of any inquiry referred to in the fifty-second section of the said Act, or to tax any costs directed to be taxed under the eighty-third section of this Act shall be the person for the time being acting as Taxing Master in the Supreme Court of Civil Justice, in lieu of "one of the Masters of the Court of Queen's Bench of England or Ireland" mentioned in the said section.

The rate of Interest payable under clause eighty five to be twelve per cent. per annum in lieu of Five

XII. The rate of interest payable under clause eighty-five of the Land Clauses Consolidation Act, 1845, shall be twelve per cent. per annum, instead of five per cent. per annum.

Surveyor to be appointed to estimate compensation where owner is absent.

XIII. The power given to two Justices to nominate an able practical Surveyor to determine the value of land and the compensation to be paid for any permanent injury to land of any party who by reason of his absence from the Kingdom is prevented from treating is hereby extended to the case of any person absent from Vancouver Island and its Dependencies, or the case of any person who cannot, after diligent enquiry, be found; or who shall not appear at the time appointed for the enquiry before the jury, as therein before provided for.

Such Surveyor to be appointed on satisfactory proof to two Justices that owner is absent.

XIV. The nomination of an able practical Surveyor to be made by two Justices, in the fifty-ninth section mentioned, shall be made upon such proof as shall be satisfactory to them that any such party has failed to appear on such enquiry before a jury as aforesaid, after due notice to him for that purpose.

Monies to be paid into the Treasury.

XV. All monies directed by the said Act to be paid into the Bank to the account of the Accountant General shall be paid into the Treasury to the account of the Registrar of the Supreme Court to be placed to the account there of the said Registrar *ex parte* the parties mentioned in the said Act, in lieu of being paid into the Bank to the account of the Accountant General and shall not be invested until otherwise provided by some Acts which may be passed in the present or any future session of Parliament.

XVI. All orders, powers and discretions of the Court of Chaucery in England, the Court of Exchequer in Ireland, mentioned or referred to in the said Act may be made by the said Supreme Court of Civil Justice.

Orders,  
Powers, &c.,  
to be made by  
Supreme Court  
Civil Justice.

XVII. The sections 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107 shall not apply.

Sections not  
to apply.

XVIII. The one hundred and thirty-third clause shall not apply, and in lieu thereof it is enacted :

The 133d clause  
not to apply.

XIX. That if the promoters of the undertaking become possessed by virtue of this, or the special Act, or any Act incorporated therewith, of any lands charged with any tax rate or assessment whatsoever, they shall from time to time until the works shall be completed and assessed, be liable to make good the deficiency in the several assessments by reason of such lands being taken up or used for the purposes of the works.

Deficiency in  
Assessments by  
reason of lands  
being taken up  
to be made  
good.

XX. The one hundred and forty-eighth, one hundred and fiftieth and one hundred and fifty-second clauses shall not apply.

Clauses not to  
apply.

XXI. The power of appeal given by the one hundred and forty-sixth section shall not apply, but any party who shall feel aggrieved, as in the said section mentioned, may appeal to the Chief Justice at the next Assizes, but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days' notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal should be brought, nor unless the appellant forthwith after such notice enter into recognizances with two sufficient sureties before a Justice, duly to prosecute such appeal and to abide the order of the Court thereon.

Appeal to be  
made to the  
Chief Justice.

XXII. Where any land reserved for Government or other purposes may be required by the promoters of any undertaking, the same shall not be taken save with the consent of the Governor for the time being, who is hereby authorized to permit such promoters to acquire such land on such terms as he may think proper, and to execute such instruments under his hand and the seal of the Colony as may be necessary for that purpose.

Government  
Reserve Land.

This Act may be cited as the "Vancouver Island Land Clauses Consolidation Act, 1863."

Citation of Act

Read a third time and passed the Council, the eleventh day of February, A.D., 1863.

RODK. FINLAYSON,  
President.

Read a third time and passed the House of Assembly, the twentieth day of February, A.D., 1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Received my assent the twenty-fifth day of February, A. D., 1863.

JAMES DOUGLAS,  
Governor.



# AN ACT

## **For consolidating in one Act certain provisions usually inserted in Acts authorizing the making of Railways.**

WHEREAS, it is expedient to comprise in one general Act sundry provisions usually introduced into Acts of Parliament, authorizing the construction of Railways, and that as well for the purpose of avoiding the necessity of repeating such provisions in each of the several Acts relating to such undertaking, as for ensuring greater uniformity in the provisions themselves.

And whereas a Bill is now pending in Parliament, entitled an Act for Consolidating in one Act certain provisions usually inserted in Acts authorizing the taking of lands for undertakings of a public nature, and which is intended to be called "The Vancouver Island Land Clauses Consolidation Act, 1863."

And whereas by an Act passed in the Imperial Parliament in the eighth year of Her present Majesty, and entitled "The Railways Clauses Consolidation Act, 1845," the provisions usually introduced into Acts of Parliament, authorizing the construction of Rail-

ways were comprised in one general Act, and it was by the said Act, enacted that the said Act should apply to every Railway which should by any Act which should thereafter be passed be authorized to be constructed, and that the said Act should be incorporated with such Act, and all the clauses and provisions of the said Act, save so far as they should be expressly varied or excepted by any such Act, should apply to the undertaking authorized thereby, so far as the same should be applicable to such undertaking, and should as well as the clauses and provisions of every other Act which should be incorporated with such Act, form part of such Act, and be construed together therewith, as forming one Act.

And whereas it is expedient that the Railway Clauses Consolidation Act, 1845, should apply to Railways which by any Act which shall hereafter be passed, be authorized to be constructed, save where such Act is inapplicable from the difference of local circumstances.

Be it therefore enacted by His Excellency the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows:

Application of  
Railway  
Clauses  
Consolidation  
Act, 1845.

I. That the Railway Clauses Consolidation Act, 1845, as modified by the provisions hereinafter contained, shall apply to every Railway which shall by any Act hereafter passed by the Legislature of Vancouver Island and its Dependencies, be authorized to be constructed, and that the said Act so modified shall be incorporated with such Act, and all the clauses and provisions of the said Act so modified, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Railway authorized thereby; so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act.

Monies to be  
deposited in  
Treasury in lieu  
of the Bank.

II. All monies directed by the said Act to be paid or deposited in the Bank, shall, under this Act, be paid into the Treasury.

Definition of  
expressions  
"Turnpike  
Road" and  
"Public Road."

III. Whenever the expression "Turnpike Road" is used in the said Act, the same expression shall be deemed equivalent to the words "Public Road," and the words "Public Road," shall include all roads over which the public have a right of way.

IV. This Act may be cited for all purposes as "The Vancouver Island Railway Clauses Consolidation Act, 1863." Citation of Act.

V. Whenever the words "Principal Act" are used, the same shall be taken to indicate the Railways Clauses Consolidation Act, 1845. The words "Principal Act" to mean the "Railways Clauses Consolidation Act, 1845."

VI. The certificate of the two Justices, and the plans and sections mentioned in the 7th and 8th sections of the principal Act, shall be deposited with the Surveyor General for the time being of Vancouver Island in lieu of being deposited with the Clerks of the Peace, Clerks of the Parishes and Postmasters, in the said section specified, and the duties by the 9th section of the principal Act imposed on the said Clerks of the Peace, Clerks of Parishes and Postmasters, shall be performed by the said Surveyor General, and true copies certified by the Surveyor General shall be received in evidence in manner provided by the tenth section of the principal Act. Certificates and Plans and Sections mentioned in the 7th and 8th Sections of Principal Act, with whom to be deposited.

VII. The application to be made to the Board of Trade under the 12th section of the Principal Act shall be made to the Surveyor General, and the powers delegated to the Board of Trade by the said section shall be exercisable by the Surveyor General. Application to be made to the Board of Trade under 12th Section of Principal Act to be made to the Surveyor General.

VIII. The certificates mentioned in the 14th clause of the principal Act may be given by the Surveyor General. Certificates.

IX. The consent to be given by Her Majesty, her Heirs and Successors, under the 17th clause of the principal Act, shall be given by the Governor for the time being of Vancouver Island and its Dependencies, to be signified in writing under the hand of the Colonial Secretary for the time being. The consent to be given by Her Majesty under the 17th Clause of Principal Act may be given by the Governor.

X. The 25th, 26th, 27th, 28th, and 29th clauses of the said Act shall not apply. Clauses not to apply.

XI. The annual account mentioned in the 107th section of the principal Act, shall be transmitted as therein mentioned, if so required by the Colonial Secretary. Annual account

XII. The 161st and 164th clauses of the principal Act shall not apply. Clauses not to apply.

XIII. The Umpire to be appointed under the 129th section of the principal Act, shall be appointed by the Chief Justice. Umpire to be appointed by Chief Justice.



[4]

Read a third time and passed the Council, the ninth day of February, A.D., 1863.

ROD. FINLAYSON,  
President.

Read a third time and passed the House of Assembly, the twentieth day of February, A.D., 1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Received my assent the twenty-fifth day of February, A. D., 1863.

JAMES DOUGLAS,  
Governor.



# AN ACT

**To declare the Fees, Licenses and Dues, payable for the Entrance and Clearance of Vessels, and for permits for landing goods, and for Licenses to Scows, Boats and other small craft in the Ports of Entry in Vancouver Island other than Victoria and Esquimalt.**

WHEREAS, Ports of Entry other than those of Victoria and Esquimalt, have been and may hereafter be established in Vancouver Island and its dependencies, for the time being, and whereas it is necessary to declare the fees to be recovered, and the mode in which they may be recovered in such free ports of entry.

Be it therefore enacted by His Excellency the Governor, by and with the advice and consent of the Legislative Council and Assembly, as follows :

Fees, licenses and dues, as are leviable and payable under "Victoria and Esquimalt Harbor Amendment Act, 1862," to be leviable and payable at all other ports of entry in Vancouver Island.

Proviso.

Penalties and mode of enforcement to be the same as under Act of Esquimalt and Victoria.

Citation of Act.

I. From and after the passage of this Act the same fees, licenses and dues, as are leviable and payable under the Victoria and Esquimalt Harbor Amendment Act, 1862, for the entry or clearance of vessels, the issuance of licenses, the landing of goods in the port of Esquimalt and Victoria, shall be leviable and payable to the Harbor Master of all other ports of entry in Vancouver Island, for the use of Her Majesty, her heirs and successors. *Provided always, that such charges for the entrance and clearance of vessels, shall only be charged upon vessels arriving from or proceeding to other than domestic ports, and the import permits only upon goods imported from places not within the colony, and further, that no vessel calling to take in coal for the use of the ship shall be charged entrance and clearance fees, provided she has cleared from a domestic port.*

II. All penalties prescribed by such Act shall be deemed to be prescribed by this Act, and the mode of enforcement of the same shall be the same as that under the said Act of Esquimalt and Victoria.

This Act may be cited as the "Ports of Entry Act," 1863.

Read a third time and passed the House of Assembly, the twentieth day of February, A.D., 1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Read a third time and passed the Council, the twenty-fourth day of February, A.D., 1863.

ROCK. FINLAYSON,  
President.

Received my assent the twenty-seventh day of February, A.D., 1863.

JAMES DOUGLAS,  
Governor.



# AN ACT

## **To declare the validity of the Debentures issued by the Municipal Council of Victoria.**

WHEREAS the Municipal Council, on the fifth day of December, 1862, passed a resolution as follows :—

*Resolved,*—That this Council borrow the sum of Five Thousand pounds sterling, under guarantee of the Government, in accordance with the 22nd and 23rd sections of the Act of Incorporation, for the purpose of grading and macadamizing the streets of the City.

And whereas the said Resolution was afterwards duly confirmed by a second meeting of the said Council duly convened under the provisions of the said Act.

And whereas the said Resolution was duly confirmed by the Municipal Electors in manner prescribed by the said Act.

And whereas doubts have been entertained whether the said Resolution enables the said Municipal Council to bind revenues to be raised under the provisions of the said Act, and it is expedient to remove the same ;

Be it therefore enacted by His Excellency the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly, as follows :--

Debentures to  
be issued by  
Council.

I. That the Mayor and Council may issue Thirty-three Debentures of Two Hundred and Fifty dollars a-piece, payable with interest at the rate of twelve per cent. per annum, on the thirty-first day of December, 1863 ; Thirty-three Debentures of Two Hundred and Fifty dollars a-piece, payable with interest at a like rate on the thirty-first day of December, 1864 ; and Thirty-three Debentures of Two Hundred and Fifty dollars a-piece, payable with interest at a like rate on the thirty-first day of December, 1865.

Form of  
Debentures.  
Debentures to  
be a first charge  
on Municipal  
monies  
Proviso.

II. That the Debentures shall be in the form marked A in the Schedule hereto, and shall be signed and sealed by the Mayor, and shall be numbered arithmetically from 1 to 99, and shall be a first charge upon all monies received by or on behalf of the Municipal Council under section 24 of the Victoria Incorporation Act, 1862 ; provided always that the Assessments on Real Estate therein mentioned shall be on the same valuation as assessed under the provisions of the Real Estate Tax Amendment Act, 1862.

Abstract of  
Revenue and  
Expenditure  
to be published  
annually.

III. The Corporation shall annually publish an abstract of the Revenue and Expenditure, and shall show the indebtedness, if any, and shall cause such account to be duly audited before such publication.

City Council-  
ors to receive  
no emoluments.

IV. The Members of the City Council shall not receive any pay or reward for their services.

Citation of Act.

V. This Act may be cited as the "Victoria Incorporation Debenture Act, 1863."

[8]

Passed the House of Assembly the twentieth day of February,  
A.D., 1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Passed the Council the twenty-fourth day of February, A.D. 1863—  
with amendments.

RODERICK FINLAYSON,  
President.

Council Amendments agreed to

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Received my assent this twenty-seventh day of February, A.D.  
1863.

JAMES DOUGLAS,  
Governor.

## SCHEDULE.

*Form A.*

CITY OF VICTORIA.

## MUNICIPAL DEBENTURE.

“ *The Victoria Incorporation Act, 1862,*” and the “ *Victoria Incorporation Debenture Act, 1863.*”

No. \$250 00

For Two Hundred and Fifty Dollars advanced to the Municipal Council of the City of Victoria, the holder of this Debenture is entitled to receive interest at the rate of per centum per annum in yearly payments, payable at on the in each year, till the principal is paid off. The said sum of Two Hundred and Fifty Dollars, with the interest thereon, is charged upon and made payable out of the Revenue of the said city, as a first charge thereon, under the terms of the said Acts ; and the principal will be repaid at day of on the day of

Signed and sealed on behalf of the Municipal Council, and in accordance with the provisions of the Acts above mentioned.

Mayor.

Registered in the books of the Corporation of the City of Victoria, on the day of 1863, by me,

Town Clerk.



# AN ACT

## To declare the denominations to be used in the various Stamps issued under the "Stamp Act, 1862."

WHEREAS certain stamps were, by the "Stamp Act, 1862" to be provided by the Treasurer; and whereas the denominations of such stamps were described in such Act in sterling money. And whereas by the "Currency Act, 1862" the money of account of the Colony of Vancouver Island and its dependencies has been altered to Dollars and Cents; and whereas it is expedient that the Stamps to be issued under the said Stamp Act shall correspond in denomination with the present legal money of account. And whereas the values of said stamps should be declared equivalent to the values intended to be levied under the Stamp Act aforesaid.

Be it therefore enacted by the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly as follows :—

I. That the Stamps to be provided by the Treasurer under the provisions of the "Stamp Act, 1862" shall be held to be equivalent, for the purposes of this Act, to the values in dollars and cents mentioned in the schedule A of this Act.

Stamps under "Stamp Act, 1862" to be equivalent to the values specified in schedule hereto



**Short Title.** II. That this Act may be cited as the "Stamp Act, 1863."

Passed the House of Assembly the twentieth day of February,  
A. D. 1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Passed the Council the twenty-fourth day of February, A. D., 1863  
—with amendments.

RODERICK FINLAYSON,  
President.

Council Amendments agreed to the twenty-fifth day of February,  
1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Received my assent this twenty-seventh day of February, A.D.,  
1863.

JAMES DOUGLAS,  
Governor.

SCHEDULE A.

Sterling.				Dollars and Cents.
£	s.	d.		
		2½	Equal to	05
	2		"	50
	4		"	1
	8		"	2
	12		"	3
	16		"	4
1	0	0	"	5



# AN ACT

**To apply the sum of Two hundred and forty-seven thousand two hundred and twenty-five dollars out of the General Revenue of the Colony of Vancouver's Island and its Dependencies to the service of the year One thousand eight hundred and sixty-three.**

Most Gracious Sovereign! We, your Majesty's most dutiful and loyal subjects the Commoners of the Colony of Vancouver's Island, in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this session of Parliament, have resolved to grant unto Your Majesty the sum hereinafter mentioned, and do therefore most humbly beseech Your Majesty that it may be enacted by His Excellency the Governor, by and with the

advice and consent of the Legislative Council and Assembly, in the present Parliament assembled and by the authority of the same as follows :—

That there shall and may be issued and applied for or towards making good the supply granted to Her Majesty for the year One thousand eight hundred and sixty-three, the sum of Two hundred and forty-seven thousand two hundred and twenty-five dollars out of the General Revenue of the Colony of Vancouver's Island and its Dependencies for the purposes specified in the Schedule hereto, and the Treasurer of the said Colony is hereby authorized and empowered to issue and apply the same accordingly.

Passed the House of Assembly the thirteenth day of February, A. D. 1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Passed the Council the twenty-fourth day of February, A.D., 1863

RODERICK FINLAYSON,  
President.

Received my assent this twenty-seventh day of February, A.D. 1863.

JAMES DOUGLAS,  
Governor.

## SCHEDULE.—No. 3.

Clerk in Colonial Secretary's Office	....	....	\$1,450
Messenger	....	....	370
Clerk in Treasurer's Office	....	....	1,200
Auditor	....	....	725
Clerk in Auditor's Office	....	....	370
Assistant Surveyor General	....	....	1,700
Postmaster	....	....	500
Clerk	....	....	500
Extra Assistance	....	....	300
Harbor Master	....	....	1,200
Clerk	....	....	750
Boatman	....	....	500
Registrar	....	....	1,500
Clerk of Writs	....	....	1,000
Clerk to Attorney General	....	....	1,000
Sheriff	....	....	970
Occasional Assistant	....	....	250
Registrar General	....	....	1,940
Commissioner of Police	....	....	1,698
Superintendent	....	....	1,000
Clerk and Storekeeper	....	....	600
Two Sergeants at \$50 per month	....	....	1,200
Eight Constables at \$45 per month	....	....	4,320
Cook	....	....	525
Sergeant at Esquimalt Town	....	....	600
Governor of Gaol	....	....	250
Gaoler	....	....	750
Assistant Gaoler	....	....	600
Superintendent of Convicts	....	....	800
Two Guards	....	....	1,000
Assessor	....	....	2,425
Legislative Council Clerk	....	....	500
House of Assembly Clerk	....	....	1,250
Printing, &c., House of Assembly	....	....	750
Gunpowder Magazine Keeper	....	....	1,000
Magistrate Nanaimo	....	....	1,200
Fuel, lights, cleaning offices, stationery, and other office con- tingencies for all departments	....	....	} 2,250
Printing for all departments	....	....	
Carried over	....	....	<u>\$42,823</u>

	Brought Forward	....	\$42,823
Attorney General	....	} <i>Administration of Justice.</i> ( <i>Ex Establishments.</i> ) }	1,455
Coroner, fees to	....		145
Fees to Witnesses	....		388
Removal and Burial of Bodies	....	....	340
Contingencies	....	....	50
Erection of Dead House	....	....	500
Victoria Hospital	....	....	2,500
Police Clothing for Superintendent and Sixteen Men	....	....	1,018
Fuel, Water and Light	....	....	475
Bedding	....	....	77
Transport and Forage for Superintendent's Horse	....	....	470
Ammunition and Repairs of Arms	....	....	50
Building and Repairs	....	....	242
Gaols—Expense of keeping 50 prisoners	....	....	3,540
Clothing for Guards	....	....	364
Clothing for Prisoners	....	....	291
Fuel, Water and Light	....	....	469
Medicine and Medical Attendance	....	....	300
Tools and Implements	....	....	388
Bedding and other necessaries	....	....	243
Rent of Post Office	....	....	330
Rent of Harbor Master's Office	....	....	330
For General purposes of Education	....	....	5,000
Conveyance of Mails to New Westminster	....	....	500
Do. do. to and from Esquimalt	....	....	290
Do. do. to and from Nanaimo, Cowichan, &c.	....	....	1,500
Do. do. to and from San Francisco	....	....	5,000
Improvement of Victoria Harbor	....	....	\$7,300
Erection of Powder Magazine	....	....	3,638
Completion of Court House	....	....	3,638
Repairs to Government Buildings	....	....	500
Painting Boys, &c.	....	....	388
Esquimalt Road	....	....	5,820
Cedar Hill Road	....	....	2,425
	Carried over	....	<u>\$172,778</u>

	Brought Forward	\$172,778
Saanich Road	7,275	
Mount Newton Cross Road	485	
Metchosin Road and Bridges	2,425	
Sooke Road	1,213	
Cadboro Bay Road	2,425	
Mount Tolmie Cross Road	1,213	
Victoria South Coast	1,212	
Burnside Deviation	1,212	
Victoria to Comax and Bridges	21,825	
Surveys and Explorations	2,425	
Occasional employment of Surveyors in assisting Settlers to take up claims in distant districts	1,450	
Sheriff—Copying List of Voters and Expenses connected therewith	130	
Revising List of Voters, and Expenses connected therewith	200	
Fire Brigade—Expenses for New Hose, Cart, &c.	1,800	
Immigration—To aid immigration and assist in the maintenance of an office to give information to immigrants	2,425	
Indian Services	500	
Interest on £40,000 Loan (6 per cent.)	11,640	
Interest on Temporary Loan	2,965	
Sinking Fund—Annual Payment at 3 per cent. for the redemption of £40,000 Loan	7,217	
Expenses connected with the Stamp Act	1,000	
Assessment of Real Estate	500	
Lighthouse Expenses	2,910	
<b>Total</b>	<b>\$247,225</b>	



# AN ACT

**To apply the Sum of Twenty-five thousand seven hundred and five dollars out of the General Revenue of the Colony of Vancouver's Island and its Dependencies for the payment of certain salaries and expenses for the service of the year One thousand eight hundred and sixty-three.**

WHEREAS it has been determined by the Commoners of Vancouver's Island and its Dependencies in Parliament assembled, that so much money as is sufficient to defray the amounts specified in the first and second parts of the Schedule hereto annexed shall be granted from the General Revenue of the Colony of Vancouver's Island and its Dependencies.



Be it therefore enacted by His Excellency the Governor, on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly as follows :

There shall and may be issued and applied for or towards making good the supply granted to Her Majesty for the year One thousand eight hundred and sixty-three out of the General Revenue of the Colony of Vancouver's Island and its Dependencies the sum of Twenty-five thousand and seven hundred and five dollars specified in the schedule hereto for the purposes therein mentioned.

Such sum shall, subject as hereinafter provided, be paid out of the General Revenue of the Colony of Vancouver's Island and its Dependencies, and the Treasurer for the time being is hereby authorized and empowered to issue and apply the same accordingly.

Provided always that the sum aforesaid shall not be paid out of or charged upon the General Revenue of the said Colony until the entire revenue including the instalments due on Land and the Public Funds of the said Colony are placed under the control of the Legislature.

Passed the House of Assembly the thirteenth day of February A.D., 1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Passed the Council the twenty-fourth day of February, A. D., 1863.

Received my assent this twenty-seventh day of February, A.D. 1863.

JAMES DOUGLAS,  
Governor.

## SCHEDULE.—No. 1.

The Governor	. . . . .	\$3,880
Colonial Secretary	. . . . .	2,425
Chief Justice	. . . . .	3,880
Attorney General	. . . . .	1,455
Treasurer	. . . . .	2,425
Surveyor General	. . . . .	1,940
Total	. . . . .	<u>\$16,005</u>

## SCHEDULE.—No. 2.

Indian Claims at Cowichan	. . . . .	\$9,700
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# AN ACT

**To grant a supplemental supply of  
Twenty-four thousand one hundred  
and twenty-nine dollars and fifty-  
three cents for the service of the  
year One thousand eight hundred  
and sixty-three.**

WHEREAS certain further supplies are required for the use of Her Majesty, and whereas the Commoners of the Colony of Vancouver Island in Parliament assembled do cheerfully grant the same and do therefore most humbly beseech Your Majesty that it may be enacted by His Excellency the Governor, by and with the advice and consent of the Legislative Council and Assembly in this present Parliament assembled, and by the authority of the same as follows :

That the sum of Twenty-four thousand one hundred and twenty-nine dollars and fifty-three cents be granted to the use of Her

Majesty for the purposes mentioned in the Schedule hereto, and that the same be paid out of the General Revenue of the Colony of Vancouver Island and its Dependencies for the service of the year 1863; and the Treasurer is hereby required to pay the same accordingly.

Passed the House of Assembly the twentieth day of February, A. D., 1863.

EDWIN JAMES NESBITT,  
Acting Clerk of the House of Assembly.

Passed the Council the twenty-fourth day of February, A.D., 1863.

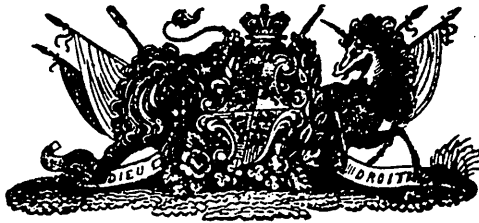
RODERICK FINLAYSON,  
President.

Received my assent the twenty-seventh day of February, A.D., 1863.

JAMES DOUGLAS,  
Governor.

## SCHEDULE.

Formation of Library for House of Assembly . . .	\$1,000	00
Small Pox Hospital . . . . .	1,000	00
Royal Hospital for building Female Ward . . .	750	00
Excess of Expenditure over amount voted by Act for the year 1862 . . . . .	21,379	58
	<u>\$24,129</u>	<u>58</u>



# AN ACT

To provide for the Election of a Mayor and Councillors for the City of Victoria, at the expiration of the period for which the present Mayor and Councillors are elected.

WHEREAS by the Victoria Incorporation Act, 1862, it was (amongst other things) enacted that the said City should be divided into three wards, and that the candidate for the Mayorship (being duly qualified therefor,) who should obtain the greatest collective number of votes should be Mayor : That there should be two Councillors elected in manner thereinafter mentioned in each of the said wards :

That the two candidates in each ward (duly qualified) who should obtain the greatest number of votes in the ward for which they might stand should be Councillors :

That every person possessed of the qualifications and under none of the disqualifications thereafter mentioned concerning electors of the said corporation should have only one vote in the election of a Mayor, and in addition to his vote in the election of a Mayor, should have two votes in the election of Councillors for each ward wherein he has property qualifications, but in voting for Councillors he should only vote once in the same ward, and might either split his vote between the candidates or vote for one only, and if he should vote for one only his vote should only count one :

That the voting for Mayor and Councillors should be open, and no person should vote by proxy :

That the qualification of voters should be as follows :

Being a male British subject of full age ;

Having resided in Vancouver Island and its dependencies for a space of three calendar months preceding the election at which he tenders his vote ;

Being, at the time of tendering his vote, rated on the Municipal Assessment Roll of the said City for Freehold or for Leasehold Estate to the amount of £20.

And it was by the said Act provided that at the first election of a Mayor and Councillors the voters should be the persons at that time registered on the list of voters for the election of representatives for the Town of Victoria, and at such election each voter on such list should have a vote for each Councillor and one for the Mayor, such votes to be given at one time and place :

AND WHEREAS, in consequence of the delays which have arisen in the revision of the Assessment Roll made in pursuance of the One Per Cent. Tax Act, it has become impossible to complete a Municipal Assessment Roll pursuant to the provisions of the said Act for the Incorporation of the City of Victoria :

AND WHEREAS it is expedient to declare the qualifications of the Mayor and Councillors at the said next election, and that the electors at the next election of Mayor and Councillors should be the persons whose names are duly registered on the list of voters for the election of representatives of Victoria City for the year 1863, and that each voter shall have one vote for Mayor and a vote for each Councillor in each ward in which he has a property qualification, and that the

election of such Mayor and Councillors shall be held in other respects as in and by the said Act is provided; and that the said Mayor and Councillors and said electors shall (save as herein otherwise provided) be subject to the same disqualifications and possess the same qualifications as in the said Act provided, and that in addition to the oaths prescribed by the said Act the voters shall take an additional oath as hereinafter provided if called on to do so as hereinafter provided:

Be it therefore enacted by the Governor on Her Majesty's behalf, by and with the advice and consent of the Legislative Council and Assembly of Vancouver Island and its dependencies:

1. That the election of a Mayor and Councillors shall be held on the sixth day of November next, in conformity with the provisions of the said Act, at such place as the Mayor and Council shall, by due notice, as in the said Act mentioned, appoint.

Next election to be held at the place appointed by the Mayor and Council.

2. That so much of the said Act as provides that at the said election the qualification of voters shall be, being rated on the Municipal Assessment Roll of the said City for Freehold or for Leasehold Estate to the amount of £20 or upwards, is hereby repealed.

Repeal of so much of the Corporation Act as provides that the electors shall be taken from the Assessment Roll at the next election.

3. That so much of the said Act as provides that at the said election the qualification of the Mayor and Councillors shall be:

Repeal of so much of the Act as provides for the qualification of Mayor and Councillors at the next election.

"Being a male British subject of full age."

"Having resided within the Island of Vancouver and its dependencies for a space of six calendar months previous to election."

"Being at and having been for three calendar months next preceding the time of election rated on the Municipal Assessment Roll of the same city in respect of Freehold to at least the value of £50, or in respect of Leasehold to at least the value of £150," is hereby repealed.

4. That the voters entitled to vote at the said election shall be the persons whose names are registered on the list of voters for the election of representatives for the Town of Victoria.

Qualification of Voters at the next election.

5. That each voter shall have one vote for Mayor and a vote for each Councillor to be elected in and for every ward in which such voter has a property qualification.

Number of Votes for Mayor and Councillors.

6. That the qualification of a Mayor and Councillor at the said next election shall be the same as at the first.

Qualification of Mayor and Councillors.



Oath of Qualification to be taken by Voter.

7. That each voter voting for a Councillor may be called upon by any duly qualified elector in the same ward to take the oath following: "I, A. B., do hereby swear that I am the said A. B. mentioned in the revised list of voters for the City of Victoria, and that I am entitled in my own right to a vote for the election of two Councillors for the \_\_\_\_\_ Ward in respect of [*Describe the nature of the qualification, specifying the block and lot, and where situated.*]"

Penalty on False Oath.

8. That any person wilfully misrepresenting himself as being entitled to vote, or wilfully misdescribing his qualification, shall be deemed guilty of misdemeanor.

Act to operate for one year.

9. This Act shall remain in operation for one year.

Act may be Repealed.

10. Nothing in this Act shall be taken or deemed to prevent the repeal or amendment of this Act or the Victoria Incorporation Act, 1862, during the present session of the Legislature.

Short Title.

11. This Act may be cited as "The Provisional Act for the Election of Mayor and Councillors, 1863."

Passed the House of Assembly the fourteenth day of October, A.D., 1863.

R. W. HORNE,  
Clerk of the House.

Passed the Council, with Amendment, the twenty-seventh day of October, A.D., 1863.

EDWIN JAMES NESBITT,  
Clerk of the Council.

Council Amendment agreed to, October 30th, 1863.

R. W. HORNE,  
Clerk of the House.

Received my assent this thirtieth day of October, A.D., 1863.

JAMES DOUGLAS,  
Governor.