

# Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires: **Page 30 is incorrectly numbered page 0. Copy has manuscript annotations.**

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below / Ce document est filmé au taux de réduction indiqué ci-dessous.

10x		14x		18x		22x		26x		30x	
							✓				
	12x		16x		20x		24x		28x		32x

THE  
STATUTES  
OF  
NOVA-SCOTIA,

PASSED  
IN THE THIRD SESSION OF THE  
GENERAL ASSEMBLY,  
OF THE  
SIXTEENTH YEAR OF THE REIGN OF HER MAJESTY  
QUEEN VICTORIA;

HELD  
20th January, 1853.



HALIFAX:  
PRINTED BY JOHN S. THOMPSON,  
Printer to the Queen's Most Excellent Majesty.



At the general Assembly of the province of Nova-Scotia, begun and holden at Halifax, on Thursday, the twentieth day of January, 1853, in the sixteenth year of the reign of our sovereign lady Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith, &c. &c. &c. being the third session of the twentieth general assembly convened in the said province.\*

\*In the time of his excellency Sir John Gaspard LeMarchant, lieutenant-governor; Michael Tobin, president of the legislative council; William Young, speaker of the assembly; Joseph Howe, provincial secretary; and Joseph Whidden, clerk of assembly.

## CHAPTER 1.

### An Act to incorporate the Nova-Scotia Railway Company.

[Passed the 31st day of March, A. D. 1853.]

#### SECTION

1. Stockholders empowered to construct trunk line and branches. Trunk line to extend from Halifax to New Brunswick. Eastern branch. Western branch.
2. When to be constructed.
3. Directors.
4. First meeting of shareholders. Organization. Directors—appointment, duration of office, &c. President.
5. Capital—how raised; limited to £1,750,000. Shares—amount of.
6. Shares not taken up. Premium. Capital may be increased.
7. Shares—how issued.
8. Payment of profits. Shares held by corporations. Liability of shareholders.
9. Capital stock—how applied.
10. Shares—deemed personal estate. Transfer of.
11. Voting—manner of. Proxies.
12. Annual meetings, &c. Special meetings—business of. Vacancies.
13. Directors—to retire annually; may be re-elected.
14. Quorum.
15. Directors—may vote by proxy.
16. Qualification of.
17. Agents.
18. Auditors.
19. Calls.
20. Governor may purchase the several lines.
21. Accounts to be kept by company. Returns to financial secretary. Accounts, &c. may be inspected.
22. Duties on materials.
23. Lands, &c. required for use of company. Bridges, viaducts, &c.

#### SECTION

24. Shareholders competent witnesses.
25. Contravention of company's regulations.
26. Bonds and notes of company.
27. Construction of railways, &c. Real estate. Plan of railways to be deposited.
28. Shares,—certificates to be evidence of.
29. Shares—transfer of.
30. Shares—trusts in respect of. Dividends—payment of.
31. Calls,—payment of, may be enforced.
32. Calls—interest may be claimed on.
33. Advances from shareholders.
34. Calls—enforcing payment of.
35. Mode of recovery.
36. Proof.
37. Ditto.
38. Shares forfeited for non-payment.
39. Ditto.
40. Ditto.
41. Sale of forfeited shares.
42. Evidence of forfeiture. Purchasers of forfeited shares.
43. Shares sold to pay calls, &c. Surplus.
44. If calls, &c. paid before forfeited shares sold.
45. Materials may be taken from crown lands.
46. Vacant crown lands may be granted without consideration.
47. Company exempted from taxation for five years.
48. Legislature—supervision of. Alteration, &c., of charter.
49. Company may enter upon and hold private lands. May take materials. Rights of crown not affected.
50. Agreements, &c. for transfer of land to company, &c. When to take effect.

## SECTION

51. Compensation for materials, &c. Commissioners for settlement of.
52. Conveyances by corporations, guardians, &c.
53. Materials may be taken and lands entered.
54. Fences to be erected and maintained. Omission.
55. Special meetings. Appointment of officers. Bye-laws, &c.
56. Officers entrusted with money.
57. Accounts of
58. Not rendering accounts, becoming defaulters.
59. Refusing to make accounts. Absconding.
60. Proceedings under this act not to affect other remedies.
61. Annual account to be submitted.
62. Returns to financial secretary.
63. Railroads to be kept in repair, and supplied with vehicles.
64. Electric telegraph along lines.
65. Dividends.
66. Guardians, &c. may receive for wards, &c.
67. Provision for contingencies before dividends made.
68. Dividends not payable where calls, &c. unpaid.
69. Liability of company.
70. Limitation of actions, &c., under this act.
71. Powers of commissioners of streets conferred on company.

## SECTION

72. Junction lines.
73. Bye-laws when to go into operation. Revision of, by governor in council. Tolls—reducing of.
74. Gauge. Fares.
75. How and when payable. Undue favor, privileges, &c. Fares—refused to pay. Passengers not conveyed to their destination.
76. Mails—conveyance of. Military and naval forces—conveyance of.
77. Provincial loans or guarantees to company. Debentures—when and how payable; interest on.
78. Form of bonds to be given by company. Loans, &c., to be a first charge upon the lines.
79. Debentures—form of; amount of; payment of; interest on.
80. Payment of—guarantee.
81. Engineer may be appointed on behalf of the province.
82. Guarantee may be renounced. Effect of renouncement.
83. Guarantee—company not entitled to until engineer report, &c.
84. Act to cease and determine in six months if stock not subscribed.
85. Suspending clause.

## Preamble.

Whereas the construction by an incorporated company of a trunk railway from the harbor of Halifax to the frontier of New Brunswick, with branches eastward to Pictou harbor and westward to Windsor, and thence to Victoria Beach or some other place in the county of Annapolis having navigable communication with the Bay of Fundy, it is believed would greatly tend to promote the welfare of this province; wherefore it is deemed proper, for advancing the public interest, that a company should be incorporated for such purpose, and should be assisted by such liberal aid from the provincial revenues as may be compatible with the resources of the province and the maintenance of its credit, and the due encouragement of other objects of essential public importance:

*Be it therefore enacted by the governor, council and assembly, as follows:—*

Stockholders  
empowered to  
construct trunk  
line and branches.

1. Such persons as shall, under the provisions of this act, become proprietors of any share or shares in the railways hereby authorized to be made, and their executors, administrators and assigns, being proprietors of any shares therein, are and shall be a company according to the rules, orders and directions hereinafter expressed, and shall for that purpose be one body, politic and corporate, by the name of the Nova Scotia railway company. And the company are empowered to make and complete a railway, to be called the Nova Scotia trunk railway, from the harbor of Halifax

Trunk line to  
extend from  
Halifax to New  
Brunswick.

to the frontier of New Brunswick; and a branch railway, to be called the eastern branch railway, from some convenient part of such trunk railway to some part of the harbor of Pictou; and a branch railway, to be called the western branch railway, from some convenient part of such trunk railway to Victoria Beach or some other place in the county of Annapolis having navigable communication throughout the year with the Bay of Fundy, by such several lines as the company shall deem most advantageous.

2. Such several railways, and the different sections thereof, may be made at the same time, or in such order as the company may think proper,—provided that the trunk railway shall be commenced within one year from the passing of this act, and shall be completed before the first day of July, 1857; and both the branch railways shall be completed before the first day of May, 1860. And it shall be imperative on the company when the trunk line is constructed as far as the point of intersection, connecting the main trunk with the western branch line, that the company should immediately commence the construction of the western branch, and extend the same to the village of Windsor, and thence in successive years to Victoria Beach, so that the whole western branch be constructed within the period limited by the present act; and that when the main trunk line is so far extended eastwardly to the point of intersection which will connect it with Pictou, they should at once commence the construction of that line, so as to have it completed within the same period.

3. The number of directors of the company shall be twelve, of whom six shall be elected by the shareholders in the company who shall have paid up all calls upon the shares held by them in the stock of the company, and six shall be appointed by the governor of the province, in consideration of the loan of the province to the company, and to represent the interest of the province in the undertaking in consequence of such loan; and such last mentioned directors shall hold office during the pleasure of the governor. No director elected by the shareholders, whose calls are unpaid, shall be allowed to vote at the board of directors.

4. When six thousand shares, equal to one hundred and fifty thousand pounds of the capital stock of the company, shall have been subscribed, and a deposit thereon of one pound per share shall have been paid into the bank of British North America in London, or any bank at Halifax, the first general meeting of the shareholders may take place at the city of Halifax, which shall be called by any three or more shareholders representing not less than thirty shares, by notice in the royal gazette and the daily and tri-weekly papers published at Halifax, at least thirty days previous to such meeting for the organization of the company; at which meeting the shareholders present or represented by proxy shall choose directors, being each a shareholder of twenty-five or more shares, by a majority of votes. These directors, with the six directors appointed by the governor, shall be the directors of the company; and the six directors so elected shall remain in office until the next

Eastern branch

Western branch

When to be constructed.

Directors.

First meeting of shareholders.

Organization.

Directors—appointment, duration of office, &amp;c.

annual general meeting of the shareholders and until others shall be elected in their stead, subject to the provisions of this act as to the vacation of the office of directors and filling any vacancy. The directors shall choose one of their number to be a president.

President.

Capital—how raised; limited to £1,750,000.

5. It shall be lawful for the company to raise and contribute among themselves, in such proportions as to them shall seem meet and convenient, a competent sum of money for the making and completing of the railways, and all such other works, matters and things as may be found necessary for the making, effecting, preserving, improving, completing, maintaining and using the railways and other works, provided such sums do not exceed the sum of one million seven hundred and fifty thousand pounds sterling; and the sum so raised shall be the capital stock of the company, which shall be divided into seventy thousand shares of twenty-five pounds sterling each: provided, if it shall be found necessary for the completion of the works, the governor in council may authorize an increase of the capital of two hundred and fifty thousand pounds sterling.

Shares, amount of.

Shares not taken up.

Premium.

Capital may be increased.

6. The directors shall dispose of and assign any shares not taken up or disposed of, to such persons, at such times, and in such manner, as they shall think most for the advantage of the company; and any premium on shares disposed of by the directors, shall go to the company as part of the profits. Whenever the company shall determine to raise any further amount of capital, not exceeding, together with the amount previously raised, the sum of one million seven hundred and fifty thousand pounds, or in case of such authority of two million pounds, the same may be raised either by the shareholders of the company among themselves, or by the admission of new shareholders, and in such manner as shall be determined by the bye-laws to be passed for the purpose.

Shares—how issued.

7. The directors shall issue to each shareholder, certificates under the common seal of the company, of the number of shares to which he is entitled and shall have taken; and he shall then be the legal owner of such shares, and invested with all the rights and subject to all the liabilities of a shareholder in respect of such shares; and each person to whom any share shall be assigned, shall on receiving the certificate therefor, sign an acknowledgment of his having taken such share, which shall be kept by the directors, and shall be the evidence of such acceptance, and that the person signing it has taken upon himself the liability aforesaid.

Payment of profits.

8. The persons, their executors, administrators and assigns, who being such shareholders, shall pay the sum of twenty-five pounds, or such sums as shall be demanded in lieu thereof, toward carrying on and completing the intended railways, shall be entitled to and receive after the railways or portions thereof shall be complete, the entire and nett distribution of the profits and advantages that shall arise and accrue by virtue of the sum and sums of money to be raised and received by the authority of this act, in proportion to the number of shares so held, subject to the interest on any loan

or guarantee made or given to the company by the province; and any person or body politic having such property of one part or share in the undertaking, and so in proportion shall bear and pay an adequate and proportional sum of money towards carrying on the undertaking in the manner by this act directed and appointed, but not to increase the liability of such shareholder beyond the amount subscribed.

Shares held by corporations.

Liability of shareholders.

9. The capital stock of the company is hereby directed and appointed to be laid out and applied for and towards making, completing and maintaining the railways, the agreements, surveys and other services incident thereto, and other the purposes of this act, and to no other use, intent or purpose whatsoever.

Capital stock—how applied.

10. The shares in the capital stock of the company shall be deemed personal estate, and shall be transferable as such, and shall be and are hereby vested in the original shareholders and their several and respective executors, administrators and assigns, to their and every of their proper use and behoof, proportionably to the sum they and each of them shall severally pay thereupon.

Shares deemed personal estate. Transfer of.

11. The number of votes to which each shareholder in the undertaking shall be entitled on every occasion when, in conformity to the provisions of this act, the votes of the shareholders of the company are to be given, shall be according to the following scale: for one share, and not more than two, one vote; for every two shares above two, and not exceeding ten, one vote, making five votes for ten shares; for every four shares above ten, and not exceeding thirty, one vote, making ten votes for thirty shares; for every five shares above thirty, and not exceeding sixty, one vote, making sixteen votes for sixty shares; and for every ten shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred shares; which said number of twenty votes shall be the greatest that any shareholder shall be entitled to give; and absent shareholders may vote by proxy, such proxy being a shareholder; but no vote shall be given in respect of any share on which all the calls are not paid up.

Voting—manner of.

Proxies.

12. In the month of September in each year, or on such other day in each year, as may be appointed for the purpose by the bye-laws of the company, an annual meeting of the shareholders of the company shall be held for the election of directors in the room of those whose office may at that time become or be vacant, and generally for the transaction of the business of the company; and if at any time it shall appear to any five or more of such shareholders, holding together, or representing as proxies, one thousand five hundred shares at least, on which all calls shall have been paid up, that for more effectually putting this act in execution, a special meeting of shareholders is necessary to be held, it shall be lawful for such five or more of them to cause forty days' notice at least to be given thereof in the Halifax gazette, and in some other newspapers in Halifax, or in such manner as shall be provided by the bye-laws of the company, specifying in such notice the time and place, and the reason and intention of such special meeting

Annual meetings, &c.

Special meetings—business of.



respectively; and the shareholders are hereby authorized to meet pursuant to such notices, and proceed to the execution of the powers by this act given to them, with respect to the matters specified in such notices only; and all such acts of the shareholders, or the majority of them, at such special meetings assembled, such majority not having either as principal or proxies less than fifteen hundred shares, shall be as valid to all intents and purposes as if the same were done at general meetings: provided always, that it shall and may be lawful for the shareholders at such special meetings, in case of the death, absence, resignation or removal of any person or persons elected by the shareholders as a director or directors of the company, to elect another or others in the room or stead of those directors who may die or be absent, resign or be removed as aforesaid: any thing in this act to the contrary notwithstanding.

Vacancies.

Directors—to retire annually—may be re-elected.

13. Of the six elective directors, two shall retire from office at the annual meeting of the shareholders next after their election, and two at the annual meeting next following; and at every annual meeting thereafter, those three directors shall retire who have been longest in office, and other directors shall, at each annual meeting, be elected by the shareholders, in place of those so retiring, the order of retirement of the first elected six directors being decided by lot; but the directors then or at any subsequent time retiring, shall be eligible for re-election: provided always, that no such retirement shall have effect unless the shareholders at such annual general meeting proceed to fill up the vacancies thus occurring in the direction.

Quorum.

14. At any meeting of the directors of the company, five directors, of whom not less than two shall be government directors, shall be *quorum* for the transaction of business; and any majority of such *quorum* shall be competent to exercise all and any of the powers hereby vested in the directors of the company.

Directors may vote by proxy.

15. The directors of the company may vote by proxy, such proxies being themselves directors, and appointed in the following form, or to the like effect:

“I hereby appoint \_\_\_\_\_ of \_\_\_\_\_, esquire, one of the directors of the Nova Scotia railway company, to be my proxy as a director of the company, and as such proxy to vote for me at all meetings of the directors of the company, and generally to do all that I could myself do as such director if personally present at any such meeting.

A. B., signature.”

But no director shall act as proxy for more than two other directors.

Qualification of.

16. The stock qualification of shareholders to be elected directors of the company, shall be twenty shares, of twenty-five pounds sterling each, of the capital stock; but any person may be appointed a director by the governor whether he be so qualified or not, or whether he be or be not a shareholder.

17. The directors of the company may appoint such and so many agents in this province, or in any other part of her majesty's dominions, as to them shall seem expedient, and may, by any bye-law to be made for such purpose, empower and authorize any such agent or agents to do and perform any act or thing, or to exercise any powers which the directors themselves, or any of them, may lawfully do, perform and exercise, except the power of making bye-laws; and all things done by such agent or agents by the virtue of the powers in him vested by any such bye-law, shall be as valid and effectual to all intents and purposes as if done by such directors themselves, any thing in any part of this act to the contrary notwithstanding.

Agents.

18. The shareholders shall at every such annual general meeting, appoint three auditors to audit all accounts of money laid out and disbursed on account of the said undertaking by the treasurer, receiver and receivers, and other officer and officers to be by the directors appointed, or by any other person or persons whomsoever employed by or concerned for or under them, in and about the undertaking.

Auditors.

19. No call of money from the shareholders shall exceed the sum of five pounds sterling per share of twenty-five pounds sterling. Two months at least shall be the interval between successive calls, thirty days' notice being given of each call in the London gazette and in the royal gazette and some other newspapers in Halifax, and the amount of such calls shall not in any one year exceed two-fifths of the stock subscribed.

Calls.

20. It shall be lawful for the governor in council, at any time after the expiration of twenty-one years from and after the first day of January next after the passing of this act, to purchase the railways with all their hereditaments, stock and appurtenances, in the name and on behalf of her majesty—upon giving to the company three months' notice in writing of his intention, and upon payment of a sum equal to twenty years purchase of the annual profits divisible upon the subscribed and paid up capital stock of the railway, estimated on the average of the seven then next preceding years,—provided that the average rate of profits for such seven years shall not be less than the rate of ten pounds in the hundred; and the company if they shall be of opinion that the rate of twenty years purchase of the average profits is an inadequate rate of purchase of such railway, reference being had to the prospective profits thereof, may require that it shall be left to arbitration in case of difference, to determine what (if any) additional amount of purchase money shall be paid to the company; provided also that such option of purchase shall not be exercised, except with the consent of the company, while any order in council, reducing the tolls fixed and regulated by any bye-law of the company, shall be in force.

Governor may purchase the several lines.

21. From and after the commencement of the period of seven years next preceding the period at which the option of purchase will become available, full and true accounts shall be kept by the

Accounts to be kept by company.

directors of the company of all sums of money received and paid on account of the railways; and the company shall once in every half year during the said period of seven years cause a half-yearly account in abstract to be prepared, shewing the total receipt and expenditure on account of the railways for the half year ending on the thirtieth day of June and the thirty-first day of December respectively, under distinct heads of receipt and expenditure, with the statement of the balance of such account, duly audited and certified under the hands of two or more of the directors of the company, and shall send a copy of such account to the financial secretary on or before the last days of August and February respectively; and it shall be lawful for the governor in council, if and when he shall think fit, to appoint any proper person or persons to inspect the accounts and books of the company during the said period of seven years; and it shall be lawful for any person so authorized, at all reasonable times, upon producing his authority, to examine the books, accounts, vouchers and other documents of the company, at the principal office or place of business of the company, and to take copies or extracts therefrom.

Returns to financial secretary.

Accounts, &c. may be inspected.

Duties on materials.

22. On all articles imported *bona fide* for the construction of the principal railway, or of any of its branches or extensions, there shall be no other or higher duties levied than are at present imposed by the existing revenue laws of this province; and if the provincial duties shall hereafter be increased, then such article shall be entitled to a drawback equal to the amount of the increase.

Lands, &c. required for use of company.

23. It shall be lawful for the company, with the consent of the governor in council, to take and appropriate for the use of their railways, but not to alienate, so much of the land covered with the waters of any lake, river, stream or canal, or of their respective beds, as may be found necessary for the making and completing or more conveniently using the same, and thereon to erect such wharves, quays, inclined planes, cranes and other works as to the company may seem meet: provided always, that it shall not be lawful for the company to cause any obstruction in or to impede the free navigation of any river, stream or canal, to or across or along which their railways shall be carried. And if the railways shall be carried across any navigable river or canal, the company shall leave such openings between the piers of their bridge or viaduct over the same, and shall construct such draw-bridge or swing-bridge over the channel of the river or over the canal, and shall be subject to such regulations with regard to the opening of such draw-bridge or swing bridge for the passage of vessels and rafts, as the governor in council shall direct and make from time to time; nor shall it be lawful for the company to construct any wharf, bridge, pier or other work upon the public beach or bed of any navigable river or stream, or upon the lands covered with the waters thereof, until they shall have submitted the plan of such work to the governor in council, and the same shall have been approved by him in council as aforesaid.

Bridges, viaducts, &c.

24. No shareholder shall be deemed an incompetent witness either for or against the company, unless he be incompetent otherwise than as a shareholder. Shareholders competent witnesses.

25. Regulations may be made by the governor in council touching any such draw-bridge or swing-bridge as aforesaid, by which penalties, not exceeding ten pounds in any case, may be imposed for the contravention thereof; and such penalties shall be recoverable from the company, or from any of their officers or servants, by whom the regulations shall have been contravened,—to be recovered and applied in manner provided as to other penalties by this act. Contravention of company's regulations.

26. The company shall have power to become a party to bonds for sums not less than one hundred pounds currency, and promissory notes and bills of exchange for sums not less than twenty-five pounds currency; and any such bond so made, and any such promissory note made or endorsed, and any such bill of exchange drawn, accepted or endorsed by the president or vice president of the company, and countersigned by the secretary and treasurer, or by any agent or agents thereunto authorized, and under the authority of a majority of a quorum of the directors, shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such promissory note or bill of exchange; nor shall the president, vice president, secretary or treasurer of the company, so making any such bond, or making, drawing, accepting or endorsing any such promissory note or bill of exchange, be thereby subjected individually to any liability whatever: provided always, that nothing in this section shall be construed to authorize the company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money or as the notes of a bank. Bonds and notes of company.

27. The company are hereby authorised and empowered by themselves, their deputies, agents, officers and workmen, to make, construct and finally complete, alter and keep in repair, the railways, with one or more sets of rails or tracks, with all suitable bridges, archways, turn-outs, culverts, drains, and all other necessary appendages: and to erect such wharves, moles, jetties, piers, docks, harbors, landings, aboiteaux, dikes, buildings, depots and warehouses, either at the termini or on the lines of the railways; and to purchase and acquire such stationary or locomotive steam engines and carriages, waggons, floats, and other machinery and contrivances, and real or personal property, as may be necessary for the making and maintaining the railways, and for the transport of passengers and merchandize thereon, and for other the purposes of this act; and may hold and possess the land over which the railways are to pass, and such adjoining lands as may be required: provided always, that a map or plan of the route determined upon, shall be deposited in the office of the secretary of the province. Construction of railways, &c. Real estate. Plan of Railways to be deposited.

28. The certificate of the proprietorship of any share in the company shall be admitted in all courts as presumptive evidence of Shares—certificates to be evidence of.

the title of any shareholder, his executors, administrators, successors or assigns, to the share therein specified; nevertheless the want of such certificate shall not prevent the holder of any share from disposing thereof.

Shares—transfer of.

29. No shareholder shall be entitled to transfer any share, after any call shall have been made in respect thereof, until he or she shall have paid all calls due on such share.

Shares—trusts in respect of.

30. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares may be subject, and the receipt of the party in whose name any such share shall stand in the books of the company, or if it stands in the name of more parties than one, the receipt of one of the parties named in the register of shareholders shall from time to time be a sufficient discharge to the company for any dividend or other sum of money payable in respect of such share, notwithstanding any trust to which such share may then be subject, and whether or not the company have had notice of such trusts, and the company shall not be bound to see to the application of the money paid upon such receipts.

Dividends—payment of.

Calls, payment of, may be enforced.

31. The several persons who have or shall hereafter subscribe any money towards the undertaking, or their legal representatives respectively, shall pay the sums respectively so subscribed, or such portions thereof as shall from time to time be called for by the directors of the company, at such times and places as shall be appointed by the directors, subject to the direction and instructions aforesaid; and with respect to the provisions in this act contained for enforcing the payment of the calls, the word "shareholder" shall extend to and include the personal representatives of such shareholder.

Calls,—interest may be claimed on.

32. If before or on the day appointed for payment any shareholder do not pay the amount of any call to which he is liable, then such shareholder shall be liable to pay interest at the rate of six per centum per annum from the day appointed for the payment thereof until actual payment.

Advances from shareholders.

33. It shall be lawful for the company, if they think fit, to receive from any of the shareholders willing to advance the same, all or any part of the monies due upon their respective shares beyond the sums actually called for; and upon the principal moneys so paid in advance, or so much thereof as from time to time shall exceed the amount of the calls then made upon the shares, in respect of which such advance shall be made, the company may pay interest at such rate, not exceeding the legal rate of interest for the time being, as the shareholder paying such sum in advance and the company may agree upon.

Calls, enforcing payment of.

34. If at the time appointed by the company, or the directors thereof, for the payment of any call, any shareholder shall fail to pay the amount of such call, it shall be lawful for the company to sue such shareholder for the amount thereof in any court of law or

equity having competent jurisdiction, and to recover the same with lawful interest from the day on which such call was payable.

35. In any action or suit to be brought by the company against any shareholder to recover any money due upon any call, it shall not be necessary to set forth the special matter, but it shall be sufficient for the company to declare that the defendant is the holder of one share or more in the company, stating the number of shares, and is indebted to the company in the sum of money to which the calls in arrear shall amount in respect of one call or more upon one share or more, stating the number and amount of each of such calls whereby an action hath accrued to the company by virtue of this act. Mode of recovery.

36. On the trial or hearing of such action or suit, it shall be sufficient to prove that the defendant at the time of making such call was the holder of one share or more in the company, and that such call was in fact made and such notice thereof given as is directed by this act; and it shall not be necessary to prove the appointment of the directors who made such call, or any other matter whatsoever; and thereupon the company shall be entitled to recover what shall be due upon such call, and interest thereon, unless it shall appear either that any such call exceeds the prescribed amount, or that due notice of such call was not given, or that the prescribed interval between two successive calls had not elapsed. Proof.

37. The production of the register of shareholders shall be *prima facie* evidence of such defendant being a shareholder, and of the number and amount of his shares. Ditto.

38. If any shareholder fail to pay any call payable by him, together with the interest, if any, that shall have accrued thereon, the directors of the company, at any time after the expiration of two months from the day appointed for payment of such call, may declare the share in respect of which such call was payable, forfeited, whether the company have sued for the amount of such call or not. Shares forfeited for non-payment.

39. Before declaring any shares forfeited, the directors of the company shall cause notice of such intention to be left or transmitted by post to the usual or last place of abode of the person appearing by the register of shareholders to be the proprietor of such share; and if the holder of any such share be beyond the limits of this province, or if his usual or last place of abode be not known to the said directors, by reason of its being imperfectly described in the shareholders' address book, or otherwise; or if the interest in any share shall be known by the directors to have become transmitted otherwise than by transfer, and so the address of the parties to whom the share or shares may for the time being belong shall not be known to the directors, the directors shall give public notice of such intention in the London gazette, and also in two or more of the newspapers published in the city of Halifax, Ditto.

and the several notices aforesaid shall be given ninety days at least before the directors shall make such declaration of forfeiture.

Ditto.

40. The declaration of forfeiture shall not take effect so as to authorize the sale or other disposition of any share, until such declaration shall have been confirmed at the next general meeting of the company to be held after such notice of intention to make such declaration of forfeiture shall have been given; and it shall be lawful for the company to confirm such forfeiture at any such meeting, and by an order at such meeting, or any subsequent general meeting, to direct the share or shares so forfeited to be sold or otherwise disposed of.

Sale of forfeited shares.

41. After such confirmation, it shall be lawful for the directors to sell the forfeited share by public auction; and if there be more than one forfeited share, then either separately or together, as to them shall seem fit, and any shareholder may purchase any forfeited share so sold.

Evidence of forfeiture.

42. An affidavit by some credible person not interested in the matter, sworn before any justice of the peace, or before any commissioner for taking affidavits in the supreme court, or other person qualified by law to take affidavits, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made, and that the forfeiture of the share was declared and confirmed in manner hereinbefore required, shall be sufficient evidence of the facts therein stated, and such affidavit and the receipt of the treasurer of the company for the price of such share, shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to such purchaser, and thereupon he shall be deemed the holder of such share, discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Purchasers of forfeited shares.

Shares sold to pay calls, &amp;c.

43. The company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest and the expenses attending such sale and declaration of forfeiture, and if the money produced by the sale of any such forfeited shares be more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, with the proof thereof and certificate of proprietorship to the purchaser, the surplus shall, on demand, be paid to the defaulters.

Surplus.

If calls, &amp;c. paid before forfeited shares sold.

44. If payment of such arrears of calls, and interest and expenses be made before any share or shares so forfeited and vested in the company shall have been sold by public auction as aforesaid, such share or shares shall revert to the party or parties to whom the same belonged before such forfeiture, in such manner as if such calls had been duly paid.

45. The company are hereby invested with the right, by their agents, servants and workmen, to enter and go in and upon the crown lands lying in the route or line of the contemplated railway, for the purpose of making examinations, surveys and other necessary arrangements, and also for the construction and repair of the railways, the several station houses and depots, to cut down any timber, trees, wood and brush, and to dig for, take, remove and use any earth, gravel, stone, timber, wood or other matter, under, on or from the crown land contiguous to the railways, free from any duties or charges therefor.

Materials may be taken from crown lands.

46. The governor in council is empowered, if they shall see fit, to grant unto the company, without pecuniary consideration, from the vacant crown lands, a belt or strip of such part of the crown lands as the contemplated railways may pass over and through, such belt or strip to extend two hundred feet on each side of the track of the railway measured from the centre thereof, and also such additional parcels of land as may be necessary in the judgment of the company for stations and other necessary purposes.

Vacant crown lands may be granted without consideration.

47. No county, parish, city or other local tax or assessment shall be levied or assessed on, or payable by the corporation or any of their lands, tenements, personal property, privileges or franchises, or on the stock thereof owned by the respective shareholders therein, or on the income derivable therefrom until five years after the completion of the trunk railway and the respective branches.

Company exempted from taxation for five years.

48. The legislature of the province shall at all times hereafter have the right to enquire into the doings of the corporation, and into the manner in which the privileges and franchises herein and hereby granted, may have been used and employed by the corporation, and to correct and prevent all abuses of the same, and to pass any laws imposing fines and penalties upon such corporation, which may be necessary more effectually to compel a compliance with the provisions, liabilities and duties herein set forth and enjoined, but not to impose any other or further duties, liabilities or obligations, and this charter shall not be revoked, annulled, altered or amended, without the consent of the corporation, or limited or restrained except by due process of law.

Legislature—supervision of.

Alteration, &c., of charter.

49. The company shall be and are hereby invested with all the powers, privileges and immunities which are or may be necessary to carry into effect the intentions and objects of this act; and for this purpose the company, their successors, deputies, agents, and assistants, shall have the right to enter and go into and upon the lands and grounds of all and every description lying in the route and general direction as aforesaid, for the purpose of making surveys, examinations or other necessary arrangements for fixing the site of the railway; and it shall and may be lawful for the company and their successors to take and hold so much of the land and other real estate as may be necessary for the laying out, making and constructing, and convenient operation of the railway, and

Company may enter upon and hold private lands.



May take materials.

they shall also have the right to take, remove and use for the necessary construction and repair of such railway and appurtenances, any earth, gravel, stone, timber or other materials on or from the land so taken, without any previous agreement with the owners or tenants of the land, and upon which such surveys, examinations or other arrangements may be made, or through which the railway may be explored, laid out, made, worked or constructed, or on which materials and other things shall be laid for the purposes of the railway: provided always that the land so taken shall not exceed six rods in width, except where greater width is necessary for the purpose of excavation or embankment, and where the railway shall pass through any woods, lands or forests, the company shall have the right to fell or remove any trees standing thereon to the distance of six rods from either side of the railway, which by their liabilities to be blown down, or from their natural falling might obstruct or impair such railway: provided always, that in all cases the company shall pay for such lands or estate so taken or used, and such materials so taken (in case the owner thereof demand it) such price as the company and the owner or respective owners thereof may mutually agree upon; and in case the parties should not agree, then it shall be lawful for the company or the parties to apply to three or more of the commissioners to be appointed in manner hereinafter provided, who shall, after giving at least twenty days notice in writing to the company and parties, examine the site of the railway; and in case the railway shall pass through or extend upon any improved lands, or shall occasion the removal of any buildings or fences, then and in all such cases the damages shall be ascertained and assessed by such commissioners or a majority of them: provided always, that not less than three commissioners shall concur in such assessment: provided nevertheless, that the commissioners in assessing the damages, are authorized and empowered, and shall take into consideration the indirect as well as the direct advantages which may accrue to the owner or respective owners, as such owner or respective owners, by the construction of such railway, as by the enhancement in value of the land by the passage of the railway in regard to the increased facilities of access to the different stations and termini of the railway, in diminution of the damages; and in all cases where the commissioners shall assess damages to be paid to the owner or owners of any land over which the railroad may be laid out, the commissioners so assessing shall lay the assessment before the next general meeting of the company under the authority of this act, who are hereby required to pay the amount set forth in the assessment into the hands of the persons for whom such damages may have been assessed, within twenty-one days next after such general meeting of the company, together with the reasonable costs and charges of the commissioners in assessing such damages; and in default of such payment it shall and may be lawful for the commissioners or either of them, (in case of the absence or death of

the others,) at the instance of the party or parties to whom such damages are payable, by warrant under the hands and seals of the commissioners, or one of them, (in case aforesaid.) to levy the same with costs by distress and sale of the goods and chattels of the company: provided always, that no claim for damages shall be allowed by such commissioners, unless the same shall have been made in writing and submitted to the company within one year from the time of taking such land or other property: provided also, that nothing in this act contained shall be construed to affect the rights of the crown in any ungranted lands within this province, or to authorize the company to enter upon or take possession of any such lands without the previous permission of the executive government of the province.

Rights of crown not affected.

50. All agreements, writings or documents, for the transfer of land or the grant of other privileges for aiding the commissioners of the railways, or any part of them, shall be valid, although not under seal or defective in form, or deficient of apparent consideration, and every of the parties thereto respectively, and each and every of them, their heirs and assigns, to take effect from the day when the same shall be respectively signed by the respective parties thereto, and be binding on such parties, their heirs and assigns, from the day of such signing respectively; and all the lands, rights, privileges and immunities mentioned and referred to in such agreements, writings or documents respectively, which may be required, taken or used by the company, for the purposes of the railway, shall by operation of law vest absolutely in such company, and shall be to all intents and purposes as valid and effectual for absolutely conveying and transferring said lands, and the right, title and interest of said parties respectively, their heirs and assigns therein or thereto, as if they had respectively signed, sealed and delivered to the company, good, valid and effectual conveyances and assurances therefor, and for the rights, privileges and immunities granted, mentioned or intended to be granted by such writings, agreements or documents respectively, without registration or further act, deed, matter or thing to be done or performed.

Agreements, &c. for transfer of land to company, &c.

When to take effect.

51. When and so soon as the same may be deemed necessary, the governor in council shall appoint not less than five persons to be commissioners for ascertaining and settling all disputes or difficulties, with reference to the payment for land or materials taken or used by the said company, under the forty-ninth, fifty-second, and fifty-third sections of this act, or damages occasioned thereby; which commissioners shall be appointed during pleasure; and in case of vacancy by refusal to act, resignation, death, removal, incapacity, or absence from the province, appointments shall be forthwith made for filling such vacancies, and such commissioners shall be sworn to the faithful and impartial discharge of their duties before any clerk of the peace for any county in this province, and the clerk so administering such oath shall forthwith transmit a cer-

Compensation for materials, &c.

Commissioners for settlement of.

tificate of such oath having been duly administered, to the office of the secretary of the province.

Conveyances by corporations, guardians, &c.

52. When the company shall take any land or estate of any body corporate, aggregate or sole, guardians, committees, executors, administrators, or other trustees whatsoever, held for or on behalf of those whom they represent, whether corporations, infants, idiots, lunatics, feme covert, persons deceased or beyond seas, or other person or persons whomsoever, who are or shall be possessed of or interested in the land or estate, the respective contracts, agreements and sales of the corporations, guardians, committees, executors, administrators, or other trustees whatsoever, shall be valid and effectual in law to all intents and purposes whatsoever, and their respective receipts shall be good and valid releases and discharges therefor; and it shall be lawful for them respectively to agree and settle with the company for damages, if any, by reason of taking such land or estate, and in case of disagreement such damage shall be ascertained and settled as provided by the forty-ninth section of this act.

Materials may be taken and lands entered.

53. The company, their superintendents, engineers, agents and workmen, may enter upon the land adjoining the railway, and from thence take and carry away any timber, stone, gravel, sand and earth, or materials necessary for the construction of the railway; and in case of any slip happening or being apprehended to any cutting, embankment, or other work belonging to the railway, the agents and workmen shall at all times hereafter, have full egress and regress into and upon such adjoining lands, for the purpose of repairing and preventing such accident, and to do such works as may be necessary for the purpose: provided always, that such works shall be as little injurious to the adjoining land as the nature of the operations will admit of, and shall be executed with all possible despatch, in all which cases the damage incurred, if the parties cannot agree, shall be ascertained and paid in like manner in all respects as provided for in the forty-ninth section of this act.

Fences to be erected and maintained.

54. The company, at their own proper costs and charges, shall erect and maintain on each side of the railway, sufficient fences wherever the same may be necessary, in order to protect the public, or wherever any clear or cultivated land occurs on the line of the railway; and for neglect or failure to erect and maintain such necessary fences, the company shall be liable to be indicted at any session of the supreme court or general sessions of the county where such fences shall be insufficient, and to be fined in such sum as shall be then and there adjudged, and such fine shall be expended for the erection or repair of said fences, and for compensation of individual damage, as the case may be; and it shall and may be lawful for the justices of the supreme court or general sessions to make such order for levying the fine on the property of the company, or otherwise, as to them shall seem most proper to the exigencies of the case, which fine shall be exclusive of any claim for damages which any party may sustain by any such neglect or failure.

Omission.

55. The directors shall have the power of calling extraordinary meetings of the company when they may consider the same expedient or necessary, and of nominating and appointing all and every the officers and engineers and other persons connected with the railway, at such salaries or rates of remuneration as to the directors shall seem proper, subject to the bye-laws, rules and regulations of the company; and the shareholders shall have the power from time to time to alter and amend, or to make such new rules, bye-laws and regulations, for the good government of the company and of the railway, and of the works and property hereinbefore mentioned, and for the well governing of the engineers, workmen and other persons employed by the company, as to the major part of the shareholders at the annual meeting of the company shall seem meet, which rules, bye-laws and regulations being put into writing under the common seal of the company, shall, if not disapproved of by the governor for the time being, as hereinbefore provided, be published in the royal gazette, and also in one or more of the newspapers published in Halifax, and shall be binding upon and observed by all parties, and shall be sufficient in any court of law to justify all persons who shall act under the same.

Special meetings.

Appointment of officers.

Bye-laws, &amp;c.

56. Before any person entrusted with the custody or control of monies, whether treasurer, collector, or other officer of the company, shall enter upon his office, the directors shall take sufficient security from him for the faithful execution of his office.

Officers entrusted with money.

57. Every officer employed by the company shall from time to time, when required by the directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account in writing under his hand, of all monies received by him on behalf of the company; and such account shall state how, and to whom, and for what purpose such monies shall have been disposed of; and together therewith, such officers shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the directors, or to any person appointed by them to receive the same, all monies which shall appear to be owing from him upon the balance of such accounts.

Accounts of.

58. If any officer of the company shall fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same, which are in his possession or power, or to pay the balance due by him when required, or if for three days after being required, he fail to deliver up to the directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters and things in his possession or power, relating to the execution of his office or belonging to the company, then on complaint thereof being made to a justice of the peace, such justice shall summon such officer to appear before two or more justices at a time and place to be set forth in the summons, to answer such charge; and upon appearance of such officer, or in his absence, upon proof that the summons was personally served upon him, or left at his last known place of abode, the

Not rendering accounts, becoming defaulters.

justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer, and if it appear upon the confession of such officer, or upon evidence, or upon inspection of the account, that any monies of the company are in the hands of such officer, or owing by him to the company, the justices may order such officer to pay the same; and if he fail to pay the amount, it shall be lawful for such justices to grant a warrant to levy the same by distress, or in default thereof to commit the offender to goal, there to remain without bail for a period not exceeding two months unless the same be sooner paid.

Refusing to  
make accounts.

Absconding.

59. If any such officer shall refuse to make out an account in writing, or to produce and deliver to the justices the several vouchers and receipts relating thereto, or to deliver up any books, papers or writings, property, effects, matters or things in his possession or power, belonging to the company, the justices may lawfully commit such officer to goal, there to remain until he shall have delivered up all the vouchers and receipts, if any, in his possession or power relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters and things, if any, in his possession or power belonging to the company: provided always, that if any director or other person acting on behalf of the company, shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe that it is the intention of any such officer to abscond, it shall be lawful for the justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for the bringing such officer before two such justices; but no person executing such warrant shall keep such officer in custody longer than twenty-four hours before bringing him before some justice, and it shall be lawful for the justice before whom such officer may be brought, either to discharge such officer, if he think there is no sufficient ground for his detention, or to order such officer to be detained in custody, so as to be brought before two justices at a time and place to be named in the order, unless such officer give bail to the satisfaction of the justice for his appearance before the justices, to answer the complaint of the company.

Proceedings under this act not to affect other remedies.

Annual account to be submitted.

60. No such proceeding against or dealing with any officer shall deprive the company of any remedy which they might otherwise have against such officer, or any surety of such officer.

61. The company shall annually submit to the legislature, within the first fifteen days after the opening of each session, a detailed and particular account, attested upon oath by the treasurer and two directors, of the monies received and expended by the company under and by virtue of this act, with a statement of the amount of tonnage and of passengers that have been conveyed along the road.

Returns to financial secretary.

62. The governor in council may order and direct the company, and thereupon it shall be their duty to make up and deliver to the financial secretary, returns, according to a form to be from

time to time prescribed by the governor in council, of the aggregate traffic in passengers according to the several classes, and the aggregate traffic in cattle and goods, respectively, on the railway, as well as of all accidents which have occurred thereon attended with personal injury, and also a table of all tolls, rates and charges, from time to time levied on each class of passengers, and on cattle and goods, conveyed on the railway.

63. The corporation, after they shall commence the receiving of tolls, shall be bound at all times to have their railroad in good repair, and a sufficient number of suitable engines, carriages and other vehicles, for the transportation of persons and articles, and be obliged to receive at all proper times and places, and convey the same, when the appropriate tolls therefor shall be paid and tendered, and a lien is hereby created upon all articles transported for such tolls.

Railroads to be kept in repair, and supplied with vehicles.

64. The company, in pursuance of any act of this province, shall be bound to allow any persons duly authorized with servants and workmen, at all reasonable times, to enter into and upon the lands of the said company, and to establish and lay down upon such lands adjoining the line of the railway or any of its branches, a line of electrical telegraph, and to give such persons every reasonable facility for laying down the same and for using the same for the purpose of receiving and sending messages, subject to such reasonable remuneration to the company as may be provided for by such act: provided always, that subject to a prior right of use thereof for the purposes of her majesty, such telegraph may be used by the company for the purposes of the railway, upon such terms as may be agreed upon between the parties, or, if they cannot agree, then in such manner as is provided for in the seventy-sixth section of this act for fixing the compensation or remuneration to this company for carrying mails.

Electric telegraph along lines.

65. The directors of the company shall make half-yearly dividends of tolls, income and profits arising to the company, first deducting thereout the annual costs, charges and expenses of the company, as well of the repairs of the works belonging to them, as for the salaries and allowances of the several officers and servants, and for such other purposes connected with the company as may be deemed proper by the directors, consistent with the bye-laws, rules and regulations of the company, subject to the lien for interest due on any loan or guarantee of the province to the company.

Dividends.

66. If any money be payable from the company to any shareholder or other person being a minor, idiot, or lunatic, the receipt of the guardian of such minor, or the receipt of the guardian or committee of such lunatic, shall be a sufficient discharge to the company for the same.

Guardians, &c. may receive for wards, &c.

67. Before apportioning the profits to be divided among the shareholders, the directors may, if they think fit, set aside thereout, such sum as they may think proper to meet contingencies, or for enlarging, repairing and improving the works connected with

Provision for contingencies before dividends made.

the railway or its branches, or any part of the said undertaking, and may divide the balance among the shareholders subject as aforesaid, and also subject to the approval of the shareholders at the annual meeting.

Dividends not payable where calls, &c. unpaid.

68. No dividend shall be paid in respect of any share until all calls then due in respect of that and every other share, held by the person to whom such dividend may be payable, shall have been paid.

Liability of company.

69. The joint stock or property of the company shall alone be responsible for the debts and engagements of the company: and no person or persons who shall or may have dealings with the company shall, under any pretence whatsoever, have recourse against the separate property of any of the individual shareholders of the company, or against their person or persons, further than may be necessary for the faithful application of the funds of the company: provided also, that no shareholder of the company shall be liable for or charged with the payment of any debt or demand due from the company beyond the extent of his share in the capital of the company not then paid up.

Limitation of actions, &c., under this act.

70. No suit or action at law or equity shall be brought or prosecuted by any person or persons for any act, matter or thing done under the authority of this act, unless such suit or action shall be commenced within one year after the offence shall have been committed, or cause of action accrued.

Powers of commissioners of streets conferred on company

71. The company shall have all the powers and authorities which are or may be given by any act or acts of the general assembly of this province to commissioners of roads, for the purpose of removing any obstruction, or for selling or disposing of any articles left on the rail road.

Junction lines.

72. The legislature of this province may authorize other companies to connect their railroads with the railroads of this company at any points on the route of such rail road, and the company may connect their rail road with any other rail road existing, or to be constructed within this province.

Bye-laws when to go into operation.

73. No bye-law of the company to be hereafter made, and by which tolls shall be fixed or directed to be taken for the conveyance of passengers, goods, wares or merchandize on the rail roads, or which shall be intended to affect any party other than the members, officers and servants of the company, shall have force and effect until it shall have been sanctioned and confirmed by the governor in council, and published in the royal gazette, a copy whereof shall be proof of such bye-law, and of such sanction, and confirmation, in all courts and places whatsoever; provided that so long as any money shall be due by the company to the province, no such bye-law shall remain in force for more than three years from the passing thereof, so that such bye-laws may be subject to periodical revision by the governor in council; and the company shall consent to any such amendments, if any, of this act as shall be requisite to give full effect to this proviso,—and provided also,

Revision of, by governor in council.

that the governor in council shall not have power to reduce the Tolls—reduc-  
tolls or fares of the company, unless the average rate of profits for ing of.  
the next preceding five years shall have exceeded eight per cent.,  
per annum, beyond all expenses.

74. The gauge of the railways to be constructed under this Gauge.  
act, shall be five feet six inches; and the fare or charge for each  
first class passenger by any train on the railways, shall not exceed  
two pence currency, for each mile travelled; the fare or charge Fares.  
for each second class passenger by any train on the railways, shall  
not exceed one penny, and one half penny currency, for each mile  
travelled; and the fare or charge for each third class passenger  
by any train on the railways, shall not exceed one penny curren-  
cy, for each mile travelled; and at least one train, having in it  
third class carriages, shall run every day throughout the length of  
the lines of each railway.

75. The same tolls shall be payable at the same time, and under How and when  
the same circumstances upon all like goods, wares, merchan- payable.  
dize and passengers by the same class of carriages, so that no  
undue privilege or monopoly may be afforded to any person, or Undue favor,  
class of persons, by any bye-law relating to tolls; and subject to privileges, &c  
such approval, it shall be lawful to provide by any such bye-law,  
that any person committing any infraction of the same, in any car Fares—refusal  
or carriage on such railroad, or refusing to pay his lawful fare to pay.  
when called upon, may be put out of such car or carriage, by the  
servants of the company at the then nearest station, and such fare  
shall always be payable as soon as the passenger shall enter the  
car or carriage, whatever be the distance to which such passenger  
intends to proceed, subject to his recourse against the company, if  
they fail to convey him to the place to which he has paid his fare.

76. The company shall at all times when thereunto required Mails—convey-  
by the postmaster general, the commander of the forces, or any ance of.  
person having the superintendance or command of any police  
force, and with the whole resources of the company, if necessary,  
carry her majesty's mail, her majesty's naval or military forces or  
militia, all artillery, ammunition, provisions or other stores for  
their use, and all policemen, constables, and others travelling on  
her majesty's service, on their railroads, on such terms and condi-  
tions, and under such regulations as the company, the postmaster  
general, the commander of the forces, or person commanding any  
police force respectively shall agree upon; or if they cannot agree,  
then on such terms and conditions, and under such regulations as  
the governor in council shall make; provided always that any fur-  
ther enactments which the legislature of this province may here-  
after deem it expedient to make with regard to the carriage of the  
mail or her majesty's forces, and such other persons and articles,  
or the rates to be paid for carrying the same, or in any way re-  
specting the use of any electric telegraph or other service to be  
rendered by the company to the government, shall not be deemed  
an infringement of the privileges intended to be conferred by this act.

Passengers not  
conveyed to  
their destina-  
tion.

Military and  
naval forces—  
conveyance of.



Provincial loans  
or guarantees to  
company.

77. When the company shall make it appear to the satisfaction of the governor in council, and the fact shall be substantiated by the report of the engineer to be appointed as hereafter mentioned, that forty thousand pounds, sterling, has been actually and with due regard to economy, expended by the company on the railways, which the company shall be authorized to construct, or any of them, in work or materials delivered on the ground, or both conjointly; then if the company shall desire it, the loan or guarantee of the province shall be given to the company, to the extent of twenty thousand pounds sterling, and whenever it shall be ascertained in like manner that another sum of forty thousand pounds has been so expended, then the loan or guarantee of the province, if required, may be given for another sum of twenty thousand pounds sterling, and so on *toties quoties*, until such loan or guarantee shall be made or given to the whole extent hereinafter limited, that is to say, to the extent as regards the trunk railway of one half of the cost thereof, but not to exceed three thousand pounds sterling per mile, in length, and to the extent as regards the branch railways of one half the cost thereof, but not to exceed two thousand pounds sterling, per mile, in length: such loan or guarantee on each occasion shall be made at the option of the governor in council, in money or in provincial debentures, payable in twenty years, with interest, payable half yearly, which debentures the company shall receive and take at par; the president and treasurer of the company, shall deliver to the receiver general on the receipt of, and in exchange for each portion of the loan or guarantee, the bonds of the company for the payment of a like sum in twenty years, with interest, payable half yearly, which loan as well the interest as the principal shall be a primary charge, and first mortgage on the railways and appurtenances and other the property of the company as hereinafter described and mentioned, and no dividend shall be declared so long as any part of any such interest remains unpaid.

Debentures—  
when and how  
payable; interest  
on.

Form of bonds to  
be given by  
company.

Loans, &c., to be  
a first charge  
upon the lines.

78. The said bonds of the company shall be in the form hereafter to be approved of by the governor in council, and the loan or guarantee, with interest thereon, payable half yearly as the interest shall accrue, shall attach as and stand, and is hereby declared to be a primary mortgage or first charge in favor of this province, upon the property of the company, and more particularly upon such trunk railway and the branch railways, their stations, station houses and lands respectively, and the rolling stock, appurtenances and property appertaining to, and the nett earnings and profits of such several railways, while any part of the principal money loaned or guaranteed, or of the interest accrued thereon, shall remain due, and notwithstanding any charges made in the rolling stock, appurtenances, and property, between the time of loan or guarantee, and of payment. And such mortgage, first charge, or lien, shall attach immediately, on the advance or making of each portion of the loan or guarantee, whether the trunk rail-

way or branch railways, shall be in course of construction or fully completed, and shall continue, abide, and endure in full force and operation, as well for securing and enforcing payment of each portion of the interest, as the same from time to time shall accrue, as of the different portions of the principal money of such loan or guarantee, as the same respectively shall become payable. And notwithstanding any intermediate sale, transfer, mortgage, lien, or disposition whatever, at any time made, given or created by the company, or any judgment or lien, created by operation of law.

79. The debentures shall be in the form hereafter to be appointed by the governor in council: they shall be signed by the governor, and verified by his seal of office, and also countersigned by the receiver general; they shall be numbered consecutively, beginning with no. 1, and shall be issued in such sums not less than one hundred pounds, sterling, as may be deemed expedient; the interest thereon shall be paid half yearly in London, or in Halifax, at the option of the company or the lender, and the principal of such debentures shall be paid in full at the end of twenty years from the date of their respective issues, to the then holders thereof at the same places.

Debentures—  
form of; amount  
of; payment of;  
interest on.

80. Subject to the payment of any previously existing provincial liability and of the civil list, the faith and credit of this province, and the ordinary revenues thereof, and the amount or proceeds of any special impost which may hereafter be levied and collected for the purpose of paying off all such railway debentures, and the interest thereon, shall be and hereby are declared pledged to any and every holder of the same for payment of interest as it becomes due, and for payment in full of the debentures, when the principal of the same becomes due and payable.

Payment of—  
guaranteed.

81. The governor in council is hereby authorized, from time to time, to appoint, during pleasure, some fit and proper person of eminent standing in his profession, as consulting engineer on behalf of this province, whose duty it shall be to watch over the interests of the province in the construction of such railways.

Engineer may  
be appointed on  
behalf of the  
province.

82. The company may, by any bye-law to be passed for that purpose, and assented to and confirmed by a majority of votes of the shareholders at an annual general meeting, or a special general meeting thereof, to be called for the purpose of considering such bye-law, renounce the benefit of the guarantee mentioned in this act; and if such bye-law be so passed, assented to, and confirmed, and a copy thereof, duly certified, be delivered to the provincial secretary, then the guarantee shall not be thereafter given, and if, at the time of the delivery of the copy of such bye-law to the provincial secretary, such guarantee shall not have been given to the company, the six directors appointed by the governor shall go out of office, and no others shall be appointed in their stead; and if the loan or guarantee has been given to the company, before a copy of such bye-law shall be delivered to the provincial secretary, then as soon thereafter as the loan or guarantee, and all interest

Guarantee may  
be renounced.

Effect of re-  
nouncement.

thereon, and the bonds of the company shall be fully paid, and all provincial debentures delivered to the company in exchange for their bonds shall have been delivered up to the receiver general to be cancelled, so that the province shall be relieved from all responsibility, or liability arising out of such loan or guarantee, then the said six directors shall go out of office, and no others shall be appointed in their stead; and when such six directors shall go out of office, under this section, the six elective directors and their successors in office, shall thenceforth be the sole directors of the company, and have, and exercise all the powers hereby conferred on the directors thereof.

Guarantee—  
company not  
entitled to until  
engineer report,  
&c.

83. The company shall not be entitled to the benefit of the guarantee or loan in the construction of the trunk and branches, respectively, until the consulting engineer, to be appointed as aforesaid, shall have examined and approved the line selected for such stations, the gauge as hereinbefore provided, the weight and form of rail, and general mode of construction of the road, and of the larger bridges, viaducts, and principal works upon such lines, and shall have reported such approval to the governor in council, with his opinion that such trunk railway is one which may advantageously form part of the trunk railway through New Brunswick to the State of Maine, and that the branch railways, respectively, are durably and faithfully made, with weight of rails to be determined by the consulting engineer, and the lines and modes of construction so approved, shall not be altered or deviated from, without the consent of the governor in council, on pain of forfeiting the right of the company to the guarantee or loan.

Act to cease and  
determine in six  
months if stock  
not subscribed.

84. This act shall cease and determine on the proclamation of the governor in council, if, at the expiration of six months from this act coming into operation, there shall not have been subscribed six thousand shares in the company, and six thousand pounds shall not have been paid thereon, into the bank of British North America in London, or into any bank in Halifax.

Suspending  
clause.

85. This act shall not come into operation until her majesty's assent shall be signified thereto.

## CHAPTER 2. *Amended by Acts of 1855 Ch. 6*

An Act to authorize the construction of certain Railways in this Province.

[Passed the 31st day of March, A. D. 1833.]

## SECTION.

1. Cost not to exceed £4,500 stg. Two thirds guaranteed to contractors.
2. Trunk line to be first completed.
3. Stock certificates to contractors.
4. £20,000 reserved until performance of contract.
5. When to be paid to contractors.
6. Ditto.
7. In case of forfeiture.
8. Commissioners—appointment and duty.
9. Ditto.
10. Their accounts.
11. Salary of.
12. Chief engineer—appointment and duty.
13. To certify.
14. Members of Legislature not to hold office, &c.

## SECTION.

15. Grades, &c.
16. Land may be taken. Plans to be recorded.
17. Materials may be taken.
18. Compensation to owners of land, &c. taken.
19. Damages—how assessed. Appraisalment.
20. Ditto.
21. To form a county charge.
22. Management.
23. Total cost not to exceed £300,000 stg.
24. Operation.
25. May be suspended. Cost may be increased to £5,200.
26. Suspending clause. *1855*

Whereas the construction and maintenance of a trunk line of railway from the harbor of Halifax to the frontier of New Brunswick, with branch lines extending to the harbor of Pictou and to Victoria Beach, will greatly facilitate the internal trade of Nova-Scotia, developing her resources, enlarging her revenues, and opening communications with the neighboring States and provinces :

Be it enacted by the governor, council and assembly, as follows :

1. Whenever contractors possessed of sufficient skill, experience and resources, shall be found to construct such lines of railway at a price not to exceed four thousand five hundred pounds sterling per mile, advancing at least one third of the capital required to complete them, it shall be lawful for the governor in council to authorise the construction of the same, and to make payment from the general revenues of this province, or from any other funds to be borrowed on its credit, to the extent of two thirds of the whole cost of such railways. Preamble.  
Cost not to exceed £4500 stg.  
Two-thirds guaranteed to contractors.
2. The trunk line shall be first completed, and the contractors are to deliver it duly equipped in sufficient time to be worked simultaneously with the line to be constructed through New-Brunswick to the frontier of the State of Maine. Trunk line to be first completed.
3. In addition to two thirds of the amount to be paid to the contractors in cash, or in the bonds of the province, as the work Stock certificates to contractors.

proceeds, it shall be lawful for the governor, or any officer by him appointed, to hand to the contractors stock certificates, representing one third of the interest and property in such railroads.

4. It shall be lawful for the governor in council to retain, out of the monies due and payable to the contractors, until the same amounts to twenty thousand pounds, ten per cent. as a reserve fund, to be held as a security for the due performance of the contract.

5. The reserve fund of twenty thousand pounds shall be so retained and be held as security for the due performance of the contract until the works are completed, and so certified to the satisfaction of the governor in council, when ten thousand pounds thereof shall be paid over to the contractors, the balance being retained for twelve calendar months after the final completion and opening of the railways, as a security against damage, to be ascertained within that period, arising from defective construction.

6. Whenever such defects as may be discovered within twelve calendar months have been made good, and the works completed, to the satisfaction of the governor in council, the reserve fund of ten thousand pounds shall be paid over to the contractors, with interest, at the rate of six per cent. down to the period that the same has been retained.

7. Should the reserve fund of twenty thousand pounds at any time be forfeited by the failure or refusal of the contractors to proceed with the work, it shall be lawful for the commissioners to be appointed under this act, to enter upon the works and take such portions of the plant, rails, or other materials, as may be required to carry on the same, to the extent of the whole or any part of the reserved fund retained from the contractors, payment being made for the same out of such reserved fund, at such prices as the government engineer and the contractors may determine, with the aid, in case of dispute, of an arbitrator, to be mutually selected, and whose award, in all cases referred to him, shall be final.

8. Whenever their services are required, it shall be lawful for the governor in council to appoint not more than five commissioners, who shall hold office during pleasure, with full powers to superintend and direct the construction of such railways, who shall be empowered from time to time to draw upon the receiver general for any amount not to exceed two thirds of the funds required for the same: provided that not more than one of such commissioners shall at any time hold a seat in each branch of the legislature.

9. The contractors, who shall own one third of the interest and property in the lines of rail roads to be constructed under this act, shall name, in addition to the five commissioners to be selected by the governor in council, three, who shall have the same powers, and be included in the same commission.

10. The governor shall have power to examine the accounts of the commissioners at all times, to inspect all contracts and proceedings, and no bonds shall be issued on account of the works for

£20,000 reserved until performance of contract.

When to be paid to contractors.

Ditto.

In case of forfeiture.

Commissioners—appointment and duty.

Ditto.

Their accounts.

which this act provides, but upon his signature, and with his sanction and approval.

11. The executive government shall, in the first instance, fix the rate of salary or compensation for the respective commissioners, subject to the revision and confirmation of the legislature at its first session thereafter. Salary of.

12. So soon as his services shall be required, the governor in council shall appoint a chief engineer, who, under the instructions he may receive from the commissioners, shall have the general superintendence of the works to be constructed under this act, and whose duty it shall be to measure the work done, and for which payment shall be claimed—to report upon the lines to be selected—the permanence of the works to be designed or executed—the strength of rails—the sufficiency of plant and rolling stock—and the faithful fulfilment of the contracts which may be entered into. Chief engineer —appointment and duty.

13. No money shall be paid, or bonds or stock certificates delivered, until the said engineer has certified that the work, for or on account of which the same shall be claimed, has been duly and faithfully executed to his entire satisfaction. To certify.

14. No member of the legislature shall hold or be appointed to any office of emolument under the commissioners, or be a contractor or party to any contract arising out of the construction, management or working of the road, or any part thereof. Members of legislature not to hold office, &c.

15. The lines of railway made under the provisions of this act shall be public provincial works, and shall be made on such grades, and in such places as the governor in council shall determine and appoint as best adapted to promote the general interests. Grades, &c.

16. The commissioners or contractors are authorised to enter upon and take possession of any lands required for the track of the railways, or for stations, and they shall lay off the same by metes and bounds, and record a description and plan thereof in the registry of deeds for the county in which the lands are situate, and the same shall operate as a dedication to the public of such lands; but the lands so taken shall not be less than four nor more than eight rods in breadth for the track, nor more than five acres in extent for any station, except at the termini of the railways. Land may be taken. Plans to be recorded.

17. The commissioners or contractors may enter with workmen, carts, carriages and horses, upon any lands, and therefrom, for the making of such railways, dig up and carry away stones and gravel, and cut down and carry away trees, bushes, logs, poles and brushwood. Materials may be taken.

18. The commissioners or contractors may make an agreement in writing with the proprietors of land so taken for damages and fencing, where such fencing shall be considered requisite by the commissioners, and also for materials for the roads taken from any lands, and the same shall be laid before the sessions, and if approved of shall be confirmed. Compensation to owners of land, &c. taken.

19. Where no agreement shall be made, or the same shall not be confirmed, one appraiser shall be appointed by the sessions, a Damages—how assessed.

second by persons interested in the lands, and on their default, after three days notice by the clerk of the peace, such two shall choose a third appraiser, and the appraisers shall be sworn to the faithful discharge of their duty, and they, or any two of them, shall make a valuation as to damages for lands and fencing when requisite, or materials taken from any land, which valuation shall be final.

Appraisalment.

20. In making such arrangement or appraisalment, the benefit likely to be derived by the proprietor from the railway running through his land shall be taken into consideration, and the damages thereby reduced or extinguished.

Ditto.

21. The monies payable for such lands and fencing shall form a county charge, but in the apportionment of the assessment the sessions shall have respect to the relative benefits derived from the railway by the several sections of the county, and shall apportion the assessment accordingly.

To form a county charge.

22. Whenever the railways, or any portions of them, shall be completed, it shall be lawful for the governor in council to make such arrangements as may be suitable for working the railways as one line by a common management, or for working the trunk line and branches by separate commissioners, such arrangement to be submitted to both branches of the legislature at the session then next ensuing.

Management.

Total cost not to exceed £300,000, stg.

23. The total sum to be raised for the purposes of this act upon the credit of the revenues of this Province, shall never exceed in the whole sum eight hundred thousand pounds, sterling.

Operation.

24. This act is passed contingently upon the ceasing and determining of an act of the present session, entitled "an act to incorporate the Nova-Scotia railway company," and shall not come into effect if the conditions on which that act is to continue in operation as expressed in the eighty-fourth section thereof, shall have been carried out and fulfilled.

May be suspended.

25. The governor in council shall have power to suspend operations under this act at any time after the completion of the trunk line or either of the branches, upon an address from both houses of the Legislature, in which case the cost of the trunk line may be increased to five thousand two hundred pounds, sterling, per mile.

Cost may be increased to £5,200.

Suspending clause.

26. This act shall not come into operation until her majesty's assent shall be signified.

**CHAPTER 3.**

**An Act to authorize a Loan for the construction of certain Public Works within this Province.**

[Passed the 31st day of March, A. D. 1853.]

**SECTION**

1. Loan—how and on what raised. Sum limited.
2. Debentures to be issued, interest thereon.
3. Debentures—their amount, interest, and payment.
4. Application of revenue for payment of interest, and redemption of loan.
5. Security for payment of interest and principal.

**SECTION**

6. Receiver general to receive sums raised—how to pay the same.
7. Receiver general to transmit account of monies.
8. Amount of stock allotted to city of Halifax. How city to be assessed.
9. Contingent on the ceasing of an act.
10. Suspending clause.

Whereas an act has passed during the present session of the **Preamble.** legislature, entitled, “an act to authorise the construction of certain railways in this province,” and it is necessary to provide the funds which may be required by the provisions of that act.

Be it enacted by the governor, council and assembly, as follows :

1. From and after the passing of this act it shall be lawful for the governor, by and with the advice of the executive council, to **Loan—how and on what raised.** contract a loan on the pledge of the revenues of this province, whether arising from the duties upon imports, the sale of crown lands, the royalty paid by miners, or the tolls to be collected on the works constructed with the monies to be borrowed under this act: provided that the whole sum to be borrowed shall not exceed **Sum limited.** eight hundred thousand pounds, sterling.

2. Certificates of debts, to be called debentures, bearing interest not exceeding six per cent. may be issued from time to time, as the works proceed, to those who may contract for such loan, or who may be employed by the government of Nova-Scotia to sell such debentures, or negotiate the loan. **Debentures to be issued—interest thereon.**

3. The debentures shall be in the form to be hereafter directed by the governor in council; they shall be signed by the governor and verified by his seal of office, and also countersigned by the receiver general; they shall be numbered consecutively, commencing with number one, and shall be issued in such sums not less than one hundred pounds, sterling, as may be deemed expedient; the interest thereon to be paid half yearly in London, or elsewhere, and the principal of such debentures shall be paid in full at the expiration of twenty-five years from the date of their respective issues to the then holders thereof. **Debentures—their amount, interest, and payment.**

4. Two thirds of the revenues arising from the receipt of tolls upon the works for which this act provides, shall, after the expenses **Application of revenue for payment of in-**



of working and maintenance have been paid, be applied towards the payment of interest on the debentures, and the surplus shall form a surplus fund for the redemption of the loan.

Interest and redemption of loan.

5. Subject to the payment of any previously existing provincial liability, and of the civil list, the faith and credit of this province and the ordinary revenues thereof, and the amount or proceeds of any special impost which may hereafter be levied and collected for the purpose of paying off all such railway debentures, and the interest thereon, shall be and hereby are declared, pledged to any and every holder of the same for payment of interest as it becomes due, and for payment in full of the debentures when the principal of the same becomes due and payable.

Security for payment of interest and principal.

6. The principal sums to be raised and borrowed shall be received from time to time as the same may be raised by the receiver general who shall, upon the warrants of the governor, pay out of the same such sums as may from time to time be required for defraying the charges made payable out of the same by this act, and the act of this session hereinbefore referred to, and who shall also, upon the warrants of the governor, pay the dividends and interest upon the sums so raised and borrowed as the same shall become due: and such fund shall be paid and managed in such manner for the redemption and liquidation of the principal sums as shall be agreed upon and negotiated when the principal sums shall be raised and borrowed; or if there be no such agreement in that behalf, then in such manner as the governor in council shall from time to time direct and appoint, subject however to the provisions of this act: and it is hereby declared that the parliament of this province will confirm and carry out by such legislative enactments, if any, as may be necessary to give full effect to the same, any arrangement or agreement not inconsistent with the spirit of this act and of the act of this session hereinbefore referred to, which may be made or authorised by the governor in council with regard to the raising and borrowing of the sums aforesaid.

Receiver general to receive sums raised—how to pay the same.

7. The receiver general shall quarterly transmit to the governor, for the purpose of being audited by the financial secretary and laid before the two houses of the legislature, a correct and detailed statement and account of the sums raised under the authority of this act, and of the debentures and other securities which shall have been issued, and of the interest and dividends paid thereon, and of the redemption of the whole or any part of the principal sum, and of the expences attending the negotiation, management, payment, and redemption of the loan.

Receiver general to transmit an account of monies.

8. The city of Halifax shall be considered as holding stock in the railways, to the extent of one hundred thousand pounds sterling, and shall be entitled to participate in the profits of the railways in proportion to the amount of such stock, and shall be assessed annually for the amount of interest thereon at the same rate of interest at which the loan is obtained, and also for a proportionate amount of such sums as may be chargeable against the general

Amount of stock allotted to city of Halifax.

How city to be assessed.

revenues of this province for the redemption of the loan, such annual sums to be assessed and levied in the same manner in which other city rates are now assessed and levied, and to be paid into the hands of the receiver general to form a part of the general revenues of this province, and to continue to be so annually assessed, levied and paid in until the loan under this act shall become extinguished under the provisions hereof.

9. This act is passed contingently upon the ceasing and determining of an act of the present session, entitled, "an act to incorporate the Nova-Scotia railway company," and shall not come into effect if the conditions on which that act is to continue in operation as expressed in the eighty-fourth section thereof, shall have been carried out and fulfilled.

Contingent on the ceasing of an act.

10. This act shall not come into operation until her majesty's assent shall be signified thereto.

Suspending clause.



## CHAPTER 4.

## An Act to regulate the practice and proceedings in the Supreme Court.

[Passed the 4th day of April, A. D. 1853.]

## SECTION.

1. Act, how cited.
2. Writs of mesne process. Forms.
3. Form of action—mention of, unnecessary.
4. Teste—abolished. Writs—when dated.
5. Writ to contain declaration.
6. Affidavit to hold to bail. Capias. Form.
7. Bail, how taken—deposit.
8. Wrong name, initials, or want of christian name in affidavit.
9. Where defendant under arrest and plaintiff does not proceed.
10. Return days.
11. Return of writs of mesne process.
12. Writs—how directed and executed.
13. Endorsement on return.
14. Lord's day—no service on.
15. Service of writ.
16. Ditto on corporations.
17. Particulars.
18. Effect of non-delivery of.
19. To give credits.
20. Set off—plea of—particulars of.
21. Particulars of demand or set off adopted by other party.
22. Summons for particulars.
23. Time to plead after delivery of particulars.
24. Appearance and judgment for non appearance.
25. Appearance—after time for, elapsed, and before judgment.
26. Parties admitted to defend after final judgment.
27. Judgment by default where particulars not given.
28. Assessment of damages where default marked.
29. Jury thereon may be demanded or ordered.
30. Appearance and plea—time for.
31. Notice to appear and plead, endorsed on writ.
32. Appearance by defendant in person. Service of pleadings on defendant appearing in person.
33. When one of several defendants only appears.
34. Warrants to prosecute or defend unnecessary.
35. Common bail abolished—form of appearances.

## SECTION.

36. Joinder of parties. Joinder of too many plaintiffs.
37. Set off against plaintiff improperly joined.
38. Non-joinder of plaintiff.
39. How amended.
40. Too many defendants.
41. Plea in abatement for non-joinder.
42. Costs.
43. In actions by husband and wife, claims of husband alone may be joined.
44. Death of parties.
45. Of one of several parties.
46. Of sole plaintiff.
47. Of sole defendant.
48. Of either party between verdict and judgment.
49. Of Plaintiff, after interlocutory and before final judgment.
50. Marriage of a woman, plaintiff or defendant.
51. Questions raised by consent, without pleading. Damages and costs.
52. Judgment.
53. Questions of law, after writ.
54. Pleading. Declaration—sufficiency of.
55. Immaterial statements in, to be omitted.
56. Demurrer to pleadings.
57. Defects in form, omissions, &c.
58. Duplicity, argumentativeness, uncertainty.
59. Amendment—demurrer in default of.
60. Powers conferred by two last sections may be exercised by court.
61. Demurrer filed by leave.
62. Judgment in.
63. Form of.
64. Form of joinder.
65. Matters of law to be stated.
66. Demand of joinder substituted for rule.
67. Frivolous or vexatious amended pleadings.
68. General issue by statute abolished.
69. Express color, profert, oyer, &c., abolished.
70. Inspection of papers and copies may be demanded.
71. Such demand to be no stay of proceedings.
72. Documents set out in pleadings.
73. Averment of performance and denial.

## SECTION.

74. General issue abolished.
75. Rule to plead and demand of plea abolished.
76. Several counts for same cause of action. Costs.
77. New defence arising after last pleading. Entry of, continuances, &c., abolished.
78. How pleadable.
79. Ejectment and trespass *quare clausum fregit*—description.
80. Trespass—defendants may demand particulars.
81. New assignment.
82. Plea.
83. Libel and slander. Averments.
84. Slander. Proof.
85. Compensation or amends in personal actions.
86. Payment of money into court to be pleaded.
87. How paid in and received out.
88. Replication to such plea.
89. Time to plead.
90. Filing pleadings.
91. All pleadings to be signed. Counsel's signature unnecessary.
92. Plea to be waived without leave.
93. Set off of mutual debts.
94. Pleas in bar, &c.—formal parts abolished.
95. Formal defence unnecessary.
96. Second and other pleas, to be pleaded without leave.
97. One plea or replication to several counts or pleas allowable.
98. Bankrupts or insolvents—actions against.
99. Discontinuance.
100. Parties may plead and demur to same pleading.
101. Different causes of action may be joined.
102. Notices received in evidence.
103. View.
104. Execution. Return.
105. To be executed according to direction endorsed.
106. When issuable.
107. Against M. P. P.
108. Coin.
109. Bank notes and securities.
110. Property exempted.

## SECTION.

111. To bind goods after delivery to sheriff.
112. Interest on judgments.
113. Discharge from custody.
114. Satisfaction pieces.
115. Scire facias. Execution may issue within 6 years without revival.
116. Judgment—how revived. Writ of revivor. Suggestion.
117. Amendment. Court or judge may amend defects, &c.
118. Party dissatisfied with amendment.
119. Amendment at trial—power of judge.
120. Ejectment. Commencement of action. Proceedings in, assimilated to other actions. Judgment by default.
121. Description of property and of parties. Notice to appear. Service of writ. Vacant possession.
122. Forms.
123. Who may appear.
124. Plea—when considered defence to whole.
125. Defence may be limited to part of property.
126. Plea, substance of—forms.
127. Plea—want of certainty in.
128. Mode of proceeding where part of property undefended.
129. Issue. Trial.
130. Action by joint tenants, tenants in common or coparceners.
131. Where plaintiffs' title expires before trial.
132. Non-appearance of either party at trial.
133. Execution.
134. Death of either party.
135. Death of one of several claimants.
136. Where right does not survive to other claimants.
137. After verdict and before execution.
138. Of sole claimant, or of one of several claimants before trial.
139. Of a joint defendant.
140. Of a sole defendant, or all the defendants.
141. After verdict.
142. Of one of several defendants before trial, defending for portion of premises.
143. Ditto after trial.

## SECTION.

141. Discontinuance as to one or more defendants.
145. By one of several claimants.
146. Defendants may confess as to part of property.
147. Also, one of several defendants who defends separately for a part.
148. Also, a defendant who defends separately for a part.
149. Judgment—effect of,
150. Special verdict.
151. Verdict for claimants—execution.
152. For defendants.
153. Jurisdiction of court and judges in action.
154. Replevin, may be brought for unlawful detention.
155. Affidavit to be filed.
156. Security to sheriff.
157. Defendant may retain possession. Securities may be assigned by endorsement.
158. Damages may be awarded to either party.
159. Bail to sheriff to be bail to action. Rendering defendant.
160. Party having given bail, may defend without filing special bail.
161. Bail—when to justify. Sheriff's liability.
162. Sheriffs' return.
163. Return non est inventus. Time for render in discharge of bail.
164. Justification where bail reside at a distance, or court not in session.
165. Actions for debt may be tried without jury.
166. Distinction of suing as attorney, &c., abolished.
167. Rules for making up the docket.
168. Continued jury cause when to be set down.
169. Docket, when to be called in Halifax. Attorney or counsel to state whether cause for trial,—whether to be defended.
170. Docket to be called but once.
171. When to be called on circuit. Statement of Attorney or Counsel.
172. Absence of a material witness.
173. Motions arising during trial—but one counsel on each side heard.
174. Trial—hearing counsel.

## SECTION.

175. New trial—when rule for, refused by judge.
176. Grounds for.
177. Costs on.
178. Where less than 40s. recovered.
179. Defendant's costs, when plaintiff does not proceed.
180. When plaintiff had opportunity in a prior suit of setting off claim.
181. Stay of proceedings on payment.
182. Costs as between attorney and client. Excessive length of pleadings.
183. Costs of new trial.
184. Security for costs.
185. If not given.
186. Costs on rules.
187. Costs of commissions. Depositions.
188. Costs of examinations de bene esse.
189. Taxation of costs.
190. Costs to be filed, and when.
191. Notice of taxation—vouchers.
192. Interlocutory costs.
193. Interest—allowance of by court or jury.
194. Damages in the nature of interest.
195. Set off exceeding plaintiff's claim.
196. Judgment for not duly proceeding to trial.
197. Final judgment—how entered up.
198. Date of.
199. Affidavit—description of the deponent.
200. Computation of time. Sunday, Christmas day, &c.
201. Making judge's order a rule—costs of.
203. Of rules nisi to set aside verdict.
204. Ditto.
205. Papers connected with argument, &c, to be filed.
206. Rule nisi for new trial—when to be argued.
208. Rules nisi moved for first day of term at Halifax. Business of term at Halifax.
209. Priority of counsel—how regulated. Demurrers—no concilium to be moved for.
210. Argument how conducted.
211. Copies of papers for judges on argument.
412. Summons and order.
213. Rules nisi may be granted by one judge.

SECTION.	SECTION.
214. Judgment, entries of—prothonotary's duty. Judgment book.	chapter 144, section 11. Costs and fees.
215. Practice in cases not provided.	217. Section 7, chapter 7, public acts, '52, repealed.
216. Chapters and sections revised statutes repealed—chapter 126, portion section 2, chapters 133, 134, 141, concluding portion section 1, and forms.	218. Effect of such repeal.
	219. Table of fees.
	220. Penalty for taking excessive fees.
	221. How recovered. Table of fees.

Be it enacted by the governor, council, and assembly, as follows:

How cited.

1. This act shall come into operation on the first day of August, in the year of our Lord one thousand eight hundred and fifty three, and may be cited and referred to as the new practice act, adding, when necessary, the number of the section.

#### WRITS OF MESNE PROCESS.

Writs of mesne process.

2. All personal actions shall be commenced by writ of summons or replevin, and in case of absconding debtors, attachment or summons, in the forms set forth respectively in Appendix A, numbers 1, 2, 3, and 4: and where the amount claimed is under twenty pounds, the writ shall be marked on the back thereof, summary cause: and every writ shall be subscribed with the name of the plaintiff issuing the same, and with his place of abode, or with the name of the attorney issuing the same.

Commencement of actions.

Forms.

3. It shall not be necessary to mention any form of action in the writ or other proceedings.

Form of action—mention of unnecessary. Teste abolished. Writs—when dated.

4. The teste of all writs, whether of mesne process or otherwise, shall be abolished, and every writ shall be dated by the prothonotary the day it is issued.

Writ to contain declaration.

5. The writ shall contain the declaration according to the practice now adopted in summary causes, and to the forms in appendix B, except in very special cases, where the declaration may be annexed or served separately, but no charge shall be allowed therefor, unless, on taxation, the judge shall deem such course to have been proper under the circumstances.

Affidavit to hold to bail.

6. If a plaintiff, in any action commenced by summons, in which the defendant is now liable to arrest, whether upon the order of a judge or commissioner, or without such order, shall, at or after the commencement of such action, by affidavit of himself, or of some other person, shew, to the satisfaction of a judge or commissioner, that such plaintiff has a cause of action against the defendant or defendants, to the amount of five pounds or upwards, or has sustained damage to that amount, and that there is probable cause for believing that the defendant, or any one or more of the defendants, is or are about to quit the province, unless he or they be forthwith arrested, such judge or commissioner may, by a special order, direct that such defendant or defendants, so about to quit the province, shall be held to bail for the amount of the debt or damage

sworn to, or, in the case of unliquidated damages, for such sum as the judge or commissioner shall think fit; and thereupon the plaintiff, within the time expressed in such order, but not afterwards, may sue out one or more writ or writs of *capias* into one or more different counties, as may be required, against any such defendant, so directed to be held to bail, which writ shall be in the form in appendix A, number 5.

*Capias.*

Form.  
Bail, how taken

7. The sheriff shall, within one month after the date of such *capias*, but not afterwards, proceed to arrest such defendant thereupon, and he shall remain in custody until he shall have given a bail bond to the sheriff, or shall have made deposit of the sum endorsed on such writ of *capias*, together with ten pounds for costs; and the sheriff shall make return of his writ immediately upon the execution thereof, or at the expiration of the month if not executed.

Deposit.

8. Where the defendant shall be described in the process or affidavit to hold to bail by initials, or by a wrong name, or without a christian name, the defendant shall not be discharged out of custody, or the bail bond delivered up to be cancelled, if it shall appear by the affidavit that due diligence has been used to obtain a knowledge of the proper name.

Wrong name, initials or want of christian name in affidavit.

9. Where a defendant is committed to jail on mesne process, and the plaintiff does not proceed to trial in the term next after his committal, or in the sittings thereafter, the defendant shall be discharged on entering a common appearance on the last day of such term, or the sittings thereafter, provided he was ready for trial at such term or sittings, and had pleaded issuably to the declaration, if served upon him, and given notice of his readiness for trial, and provided the cause had been called for trial, and also provided the court shall not, on sufficient cause shewn on affidavit, be of opinion that the defendant ought not to be discharged.

Where defendant under arrest and plaintiff does not proceed.

10. There shall be four return days in every county, which shall be as follows:

Return days.

- 1st. First Tuesday of January.
- 2nd. First Tuesday of April.
- 3rd. First Tuesday of July.
- 4th. First Tuesday of October,

except as respects the third return day in the following counties, which shall be thus:

Digby, Cape Breton and Yarmouth, third Tuesday of September.  
 Annapolis, Shelburne and Cumberland, fourth Tuesday of September.

11. Writs of mesne process may be made returnable over one return day.

Return of writs of mesne process.

12. Writs shall be directed thus: To the Sheriff of —, or to any other of our sheriffs; and may be executed by any sheriff within his bailiwick, and concurrent writs may be issued.

Writs—how directed and executed.

13. The sheriff shall in his return on every writ of mesne process state the very day on which it was served, and shall not be

Endorsement on return.



allowed any fees on process served by him where the return is not so made.

Lord's day—no service on. 14. No person upon the Lord's day shall serve or execute any civil writ or process, but the service thereof shall be void, and the party serving the same shall be liable to the party aggrieved, as if he had executed the same, without any writ or process.

Service of writ. 15. The service of the writ wherever practicable shall be personal, but the plaintiff shall be at liberty to apply, from time to time, if necessary, on affidavit to the court or a judge, who may, if satisfied that the writ has come to the knowledge of the defendant, or that he wilfully evades service, order that the plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as to the court or a judge may seem fit.

Ditto on corporations. 16. Writs against a corporation may be served on the principal officer, or on the clerk or secretary.

Particulars. 17. The plaintiff shall annex, or endorse on his writ and copy thereof, the particulars of his claim, in the form, or to the effect contained in appendix A, number 6, in all cases where the claim is for a debt, or liquidated demand in money, with or without interest arising upon a contract express or implied.

Effect of non-delivery of. 18. If such particulars are not given, the plaintiff shall not be entitled to final judgment on non-appearance of defendant.

To give credits. 19. The plaintiff's particulars shall give credits, if there be any.

Set off; plea of; particulars of. 20. A set-off by defendant shall be pleaded, and he shall annex to, or indorse on his plea, and copy thereof, full particulars of each set-off, giving credits, if there be any, and in default, his plea may be treated as a nullity; such particulars shall be assimilated in form to those in appendix A, number 6.

Particulars of demand or set off adopted by either party. 21. Neither plaintiff nor defendant shall be at liberty to adopt his adversary's particulars, without at the same time admitting the adverse side of the account or claim as presumptive proof thereof.

Summons for particulars. 22. A summons for particulars and order thereon may be obtained from a judge or the prothonotary, by either party, without the production of any affidavit, but a summons and order for further or better particulars, or for amending particulars, shall be granted only by a judge, and upon affidavit.

Time to plead after delivery of particulars. 23. A defendant shall be allowed the same time for pleading, after the delivery of particulars under a judge's or prothonotary's order, which he had at the return of the summons; nevertheless, judgment shall not be signed until the day after the delivery of particulars, unless otherwise ordered by a judge, and the judge may order further time.

#### APPEARANCE AND JUDGMENT FOR NON-APPEARANCE.

Appearance and judgment for non-appearance. 24. In case of non-appearance, where particulars are annexed or endorsed, the plaintiff may, after the time for appearance has elapsed, sign final judgment, which may be entered in the form given in appendix A, number 7, and on which no proceeding in error

shall lie, for any sum not exceeding the sum mentioned in the particulars, with interest, at the rate specified, if any, to the date of judgment and taxed costs; but the plaintiff shall not, in such case, be entitled to recover any sum beyond the sum so mentioned, with interest and costs. Judgment by default.

25. A party may appear at any time before judgment by default, and if he appear after the time specified in the writ of summons, he shall, after notice of such appearance to the plaintiff or his attorney, as the case may be, be in the same position, as to pleadings and other proceedings in the action, as if he had appeared in time; provided always, that a defendant appearing after the time appointed by the writ, shall not be entitled to any further time for pleading or any other proceedings, than if he had appeared within such appointed time. Appearance.  
After time for elapsed and before judgment.

26. It shall be lawful for the court or a judge, either before or at any time within one year after final judgment, to let in the defendant to defend upon an application supported by satisfactory affidavits, accounting for the non-appearance, and disclosing a defence upon the merits. Parties admitted to defend after final judgment.

27. In case of non-appearance, where the particulars are not given, judgment by default may be signed at the expiration of the time for appearance, but no costs shall be allowed in respect of assessment of damages unless it appear that the plaintiff could not conveniently furnish the particulars at the time of the issue of the writ. Judgment by default where particulars not given.

28. In actions for the recovery of debts, where a judgment for default has been marked, the court, or a judge, may assess the damages on competent evidence in writing, or *viva voce*; and the attendance of witnesses and production of documents before the court or a judge may be enforced by subpoena, in the same manner as upon the trial of a cause before a jury. Upon such assessment, signed by the judge or prothonotary being filed, the costs in the action may be taxed, and final judgment entered thereon. Assessment of damages where default marked.

29. Either party, upon due application to the court, or a judge, may have the assessment made by a jury, or, at any assessment to be made before the court, if the court should think fit, by a special jury; and at any assessment before a judge, he may order such assessment to be made by a jury. Jury may be demanded or ordered.

30. The defendant shall appear and plead within four days after the return day of the writ, if it has been served within the times following, viz.: if he resides in the county in which the action is brought, eight days; if in any other county, except in the island of Cape Breton, fourteen days; and if he resides in the island of Cape Breton, and the action is brought in any county not in the island, or if he resides out of the island, and the action is brought in any county within the island, twenty-one days before the return day; but where the writ has been served within these periods, respectively, he shall have the like time for appearance and plea after the service. Appearance and plea—time for.

Notice to appear and plead endorsed on writ.

31. Every writ by which an action is commenced, shall bear an endorsement, requiring the defendant to appear and plead within twelve, eighteen, or twenty-five days, as the case may be, otherwise judgment; the notice to be in the form in appendix A, number 8.

Appearance by defendant in person.

32. Every appearance by the defendant, in person, shall contain an address, at which it shall be sufficient to leave all pleadings and other proceedings not requiring personal service, and if the address be not given, the plaintiff may proceed by sticking up the proceedings in the prothonotary's office, without further service until the true address be given.

Service of pleadings on defendant appearing in person.

When one of several defendants only appears.

33. In any action brought against two or more defendants, where the writ of summons is endorsed in the special form hereinbefore provided, if one or more of the defendants shall only appear, and another or others of them shall not appear, it shall be lawful for the plaintiff to sign judgment against such defendant or defendants only as shall not have appeared, and to issue execution thereupon, in which case he shall be taken to have abandoned his action against the defendant or defendants who shall have appeared, and such defendant or defendants shall be entitled to their costs, or the plaintiff may, before issuing such execution, proceed against such defendant or defendants as shall have appeared, stating, by way of suggestion, the judgment obtained against the other defendant or defendants who shall not have appeared, in which case the judgment so obtained against the defendant or defendants who shall not have appeared, shall operate and take effect, whether the plaintiff succeeds against the other defendant or defendants or not.

Warrants to prosecute or defend unnecessary. Common bail abolished.

34. It shall not be necessary to file warrants of attorney to prosecute or defend.

35. Common bail is abolished, and the appearance shall be in the form in appendix A, number 9.

#### JOINDER OF PARTIES.

Joinder of parties.

Joinder of too many plaintiffs.

Set off against plaintiff improperly joined.

36. The joinder of too many plaintiffs shall not be fatal to any action, but the plaintiff or plaintiffs entitled may recover.

37. The defendant, in any action in which there is more than one plaintiff, on pleading a set off may obtain the benefit of the set off on proving, either that all the parties named as plaintiffs are indebted to him, notwithstanding that one or more of such plaintiffs was or were improperly joined, or on proving that the plaintiff or plaintiffs, or any or either of them who establish their right to maintain the action was or were indebted to him.

Non-joinder of plaintiff.

38. The non-joinder of a person as plaintiff in an action on contract, shall be a variance to be amended at or at any time before the trial by the court or a judge, if it shall appear that such non-joinder was not for the purpose of obtaining an undue advantage, and that injustice would not be done by amending, and that the omitted party consent to be joined as a co-plaintiff, provided, however, that no such amendment shall be made if the defendant shall,

at or before the time of pleading have given notice to the plaintiff that he objects to such non-joinder.

39. In case such notice be given, or any plea of non-joinder be pleaded, the plaintiff shall be at liberty to amend the writ and other proceedings, by adding the name of the person alleged to have been improperly omitted as plaintiff, on payment of costs and with liberty for the defendant to plead anew. How amended.

40. Where too many defendants are joined in an action on contract, the plaintiff shall be at liberty to recover against such defendant or defendants as appear to be liable, and the other defendants shall be acquitted with like provisions respecting set off, and evidence as in the case of too many plaintiffs, and the defendant so acquitted shall be entitled to their costs. Too many defendants.

41. Upon a plea in abatement of non-joinder of a contractor as defendant, the plaintiff may amend his writ, serve the amended writ on the added defendant, and proceed against both, and the date of such amendment shall, as between such added defendant and the plaintiff, be considered the commencement of the suit. Plea in abatement of non-joinder.

42. In such case, if upon the trial of the cause, it shall appear that the added defendant was jointly liable with the original defendant, the original defendant shall be entitled to the costs of the plea in abatement and amendment, but if at the trial it shall appear that the plaintiff cannot maintain his action against the original and added defendants, but can maintain his action against the original defendant alone, the added defendant shall be acquitted with costs, and the plaintiff shall be entitled to recover against the original defendant with costs, including those of the plea in abatement, and such costs as the plaintiff may have to pay the added defendant. Costs.

43. In any action brought by a man and his wife, for an injury to the wife, in respect of which she is a necessary plaintiff, there may be joined claims by the husband alone, but in the case of the death of either plaintiff, the suit so far only as relates to the causes of action, if any, which do not survive, shall abate. In actions by husband and wife, claims of husband alone may be joined.

44. The death of a plaintiff or defendant shall not cause the action to abate, but it may be continued in manner and under the restrictions hereinafter mentioned. Death of parties.

45. If there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of such action shall survive to such surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the action shall not be thereby abated, but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants. Of one of several parties.

46. In case of the death of a sole plaintiff, or sole surviving plaintiff, the legal representative of such plaintiff may at any time within two years after such death, by leave of the court or a judge, enter a suggestion of the death, and that he is such legal representative, and the action shall thereupon proceed; and if such sugges-

tion be made before the trial, the truth of the suggestion shall be tried thereat, together with the cause of action of deceased plaintiff, and such judgment shall follow upon the verdict in favor of, or against the person making the suggestion, as if such person were originally the plaintiff.

Of sole defendant.

47. In case of the death of a sole defendant, or sole surviving defendant, where the action survives, the plaintiff may make a suggestion, either in any of the pleadings if the cause has not arrived at issue, or in the issue, if it has so arrived of the death, and that a person named therein is the executor or administrator of the deceased, and may thereupon serve such executor or administrator with a copy of such writ and suggestion, and with a notice signed by the plaintiff, or his attorney, requiring such executor or administrator to appear and plead within twelve, eighteen, or twenty-five days, as the case may be, after service of the notice; and that in default of his so doing, the plaintiff may sign judgment against him as such executor or administrator, and the same proceedings may be had in case of non-appearance and plea, after such notice as upon a writ against such executor or administrator, in respect of the cause for which the action was brought; and in case no pleadings have taken place before the death, the suggestion shall form part of the declaration, and the declaration and suggestion may be served together, and the new defendant shall plead thereto at the same time, and in case the plaintiff shall have served his declaration, but the defendant shall not have pleaded before the death, the new defendant shall plead at the same time to the declaration and suggestion, and in case the defendant shall have pleaded before the death, the new defendant shall be at liberty to plead to the suggestion, only by way of denial, or such plea as may be appropriate and rendered necessary by his character of executor or administrator, unless, by leave of the court or a judge, he should be permitted to plead fresh matter, in answer to the declaration, and in case the defendant shall have pleaded before the death, but the pleadings shall not have arrived at issue, the new defendant, besides pleading to the suggestion, shall continue the pleadings to issue in the same manner as the deceased might have done, and the pleadings upon the declarations, and pleadings upon the suggestion shall be tried together, and in case the plaintiff shall recover, he shall be entitled to the like judgment, in respect of the debt or sum sought to be recovered, and in respect of the costs, prior to the suggestion, and in respect of the costs of the suggestion and subsequent thereto, as in an action originally commenced against the executor or administrator.

Of either party between verdict and judgment. 48. The death of either party, between the verdict and the judgment, shall not hereafter be alleged for error, so as such judgment be entered within two terms after such verdict.

Of plaintiff after interlocutory and before final judgment. 49. If the plaintiff in any action happen to die after an interlocutory judgment, and before a final judgment obtained therein, the action shall not abate by reason thereof, if such action might

be originally prosecuted or maintained by the executor or administrator of such plaintiff; and if the defendant die, after such interlocutory judgment, and before final judgment obtained therein, the action shall not abate, if such action might be originally prosecuted or maintained against the executor or administrator of such defendant, and the plaintiff, or if he be dead after such interlocutory judgment, his executors or administrators may have a writ of revivor against the defendant, if living, after such interlocutory judgment, or if he be dead, then against his executors or administrators, to shew cause why damages in such action should not be assessed and recovered by him, or them; and if such defendant, his executors, or administrators shall appear at the return of such writ, and not show or allege any matter sufficient to arrest final judgment, or shall make default—damages shall be thereupon assessed as hereinbefore provided; and upon the return of the writ or delivery of the order, with the amount endorsed thereon, judgment final shall be given for the plaintiff, his executors, or administrators, prosecuting such writ of revivor against such defendant, his executors or administrators respectively.

50. The marriage of a woman, plaintiff or defendant, shall not cause the action to abate, but the action may, notwithstanding, be proceeded with to judgment, and such judgment may be executed against the wife alone, or by suggestion or writ of revivor, pursuant to this act, judgment may be obtained against the husband and wife, and execution issue thereon, and in case of a judgment for the wife, execution may be issued thereupon by the authority of the husband, without any writ of revivor or suggestion, and if in any such action, the wife shall sue or defend by attorney, appointed by her when sole, such attorney shall have authority to continue the action or defence, unless such authority be countermanded by the husband, and the attorney changed according to the practice of the court.

Marriage of a woman, plaintiff or defendant.

#### QUESTIONS RAISED BY CONSENT WITHOUT PLEADING.

51. The parties, after writ issued, may, by leave of the court or a judge, state any question for trial, which they may think fit, without any pleadings, and with or without an agreement; that according as it may be determined an agreed sum of money, or a sum to be ascertained by the jury, shall be paid, and as to payment of costs.

Questions raised by consent, without pleading.

Damages and costs.

52. Upon such finding, judgment may be entered, and the proceedings recorded.

Judgment.

53. Questions of law, after writ issued, may be stated for the opinion of the court, without pleading, and with similar agreements as to money and costs to be recovered, and with or without an agreement to bring errors, which may be brought when agreed.

Questions of law after writ.

#### PLEADING.

54. Every declaration, whether in the body of the writ or

Pleading. Declaration—sufficiency of.

annexed, and subsequent pleadings which shall clearly and distinctly state all such matters of fact as are necessary to sustain the action, defence, or reply, as the case may be, shall be sufficient, and it shall not be necessary that such matters should be stated in any technical or formal language or manner, or that any technical or formal statements should be used.

Immaterial statements in, to be omitted.

55. All statements which need not be proved, such as the statement of time, quantity, quality and value, where these are immaterial, that of losing, and finding, and bailment in actions for goods or their value; the statement of acts of trespass having been committed with force and arms, and against the peace of our lady the queen; the statement of promises which need not be proved, as promises in indebitatus counts and mutual promises to perform agreements, and the like statements, shall be omitted; and when any clearly unnecessary statement is made, or any statement is made with unnecessary prolixity, as for instance, where evidence of the fact is pleaded instead of or as well as the matter of fact itself, or otherwise, it may be struck out or amended by the court or a judge, with or without costs.

Demurrer to pleadings.

56. Either party may object by demurrer to the pleading of the adverse party, on the ground that such pleading does not set forth sufficient ground of action, defence, or reply, as the case may be; and where issue is joined on demurrer, the court shall proceed and give judgment according as the very right of the cause and matter in law shall appear unto them, without regarding any imperfection, omission, defect in, or lack of, form; and no judgment shall be arrested, stayed, or reversed for any such imperfection, omission, defect in or lack of form.

Defects in form, omissions, &c.

57. Except in the cases hereinafter particularly mentioned, no pleading shall be deemed insufficient for any defect now objectionable on special demurrer only.

Duplicity, argumentativeness, uncertainty.

58. Duplicity, argumentativeness, and uncertainty, shall be no longer grounds of objection to a pleading, unless the effect of such duplicity, argumentativeness, or uncertainty, shall be to embarrass the opposite party; but if any pleading by reason of duplicity, argumentativeness, or uncertainty, shall be so framed as to embarrass or mislead the opposite party, it shall be competent to the latter to apply to a judge to have such pleading amended, which application shall be by summons, wherein the party shall state the particular ground of objection, and require that the pleading be amended.

Amendment—demurrer in default of.

59. Upon the hearing of such summons, if the judge shall be of opinion that the objection is well founded, and that the pleading is, in the matter objected to, so pleaded as to embarrass or mislead the opposite party, he may order the party pleading to amend in such manner as he may direct upon payment of costs; and in the event of such amendment not being made within a limited time, the party complaining shall be at liberty to demur, but if the judge shall not be of such opinion, he shall dismiss the summons with costs, and the party complaining shall have no further right of

objection as to the point mentioned in the summons, or as to any other point of duplicity, argumentativeness, or uncertainty.

Powers conferred by two last sections may be exercised by Court.

60. The powers conferred upon a judge under the two last sections, may be exercised by the court.

61. A demurrer on any such ground shall state that it is pleaded by leave, and shall repeat the objection taken in the summons and that only.

Demurrer filed by leave.

62. Upon the argument of such demurrer the court shall give judgment according to the validity or invalidity of the specified objection and the substance of the pleading.

Judgment in.

63. The form of a demurrer shall be as follows :

Form of.

The plaintiff [or defendant] by his attorney, [or in person] says that the declaration [or plea, &c.] is bad in substance, for the following reasons, viz. :

64. The form of a joinder in demurrer, in all other cases shall be as follows :

Form of joinder.

The plaintiff [or defendant] says that the declaration [or plea, &c.] is good in substance.

65. In every demurrer some matter of law intended to be argued shall be stated ; and if any demurrer shall be delivered without such statement, or with a frivolous statement, it may be set aside as irregular by the court or a judge, and leave may be given to sign judgment as for want of a plea ; but the party demurring, may, at the time of the argument, insist upon any further matters of law, which have been added to the demurrer by a judge's order.

Matters of law to be stated.

66. No rule for joinder in demurrer shall be required, but the party demurring may demand a joinder in demurrer ; and the opposite party shall be bound within fourteen days after such demand to deliver the same, otherwise judgment.

Demand of joinder substituted for rule.

67. The court or a judge shall, in all cases, have power to set aside frivolous or vexatious pleadings, and pleadings colourably amended, in pretended compliance with a judge's order to amend.

Frivolous or vexatious amended pleadings.

68. All statutory enactments allowing parties to plead the general issue or other general plea, and to give special matter in evidence, under such plea, are repealed.

General issue by statute abolished.

69. Express colour, profert, oyer, and special traverses, are abolished.

Express colour, profert, oyer, &c., abolished.

70. Each party shall be entitled to demand of the other a copy or inspection, or both copy and inspection, in whole or in part, of any deed, agreement, bill, or other written document, mentioned or referred to in his pleading, or in any paper therein referred to, or whereof inspection could be obtained by a bill of discovery ; and in the event of such copy not being delivered, or such inspection not being granted, shall be entitled to apply to the court or a judge for an order for such copy or inspection, or both, as the court or a judge may think fit.

Inspection of papers and copies may be demanded.

71. Such demand, summons, or order, shall be no stay of proceedings, unless specially ordered, and the court or a judge may

Such demand to be no stay of proceedings.

*See note under 67. 24 of 86. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.*



impose such conditions for enforcing obedience thereto as may be deemed right.

Documents set out in pleadings.

72. A party pleading in answer to any pleading in which such document is mentioned or referred to, shall be at liberty to set out the whole, or such part, or the substance thereof, as may be material; and the matter so set out shall be deemed and taken to be part of the pleading in which it is set out.

Averment of performance and denial.

73. A plaintiff or defendant may aver performance of conditions precedent generally, and the opposite party shall not deny such averment generally, but shall specify the condition or conditions precedent the performance of which he intends to contest.

General issue abolished.

74. The general issue is abolished, and every pleading shall specify, particularly and concisely, the facts intended to be denied.

Rule to plead and demand of plea abolished.

75. The rule to plead, and the demand of plea shall be abolished, and the notice to plead, which may be endorsed on the writ, or declaration, or delivered separately, shall be alone retained.

Several counts for same cause of action.

76. Two or more counts may be added for the same cause of action, and several pleas, replications, and subsequent pleadings may be pleaded, but no cost shall be allowed for any count or other pleading which may appear to the judge unnecessary. The costs of all issues shall be borne by the party against whom they are found, and the jury shall be required to find the truth on each issue.

Costs.

New defence arising after last pleading.

77. No entry of continuances, by way of imparlance, *curia advisari out*, *vice comes non misit breve*, or otherwise, shall be made upon any record or roll whatever, or in the pleadings; but in all cases in which a plea *puis darrein continuance* is now by law pleadable, the same defence may be pleaded with an allegation that the matter arose after the last pleading, or the issuing of the jury process, as the case may be.

Entry of, continuances, &c., abolished.

How pleadable.

78. Any defence arising after the commencement of any action, shall be pleaded according to the fact, without any formal commencement or conclusion, and any plea which does not state whether the defence therein set up arose before or after action, shall be deemed to be a plea of matter arising before action.

Ejectment and trespass *quare clausum fregit*—description.

79. In ejectment and in trespass *quare clausum fregit*, the property shall be described by metes and bounds, or other certain designation.

Trespass—defendants may demand particulars.

80. In any action for trespass to a person or property, the defendant shall be entitled to particulars, indentifying the cause of action for which the plaintiff is proceeding, and the plaintiff to particulars of any justification pleaded by the defendant, and the judge may order plans of the place in question to be exchanged between the parties.

New assignment.

81. No new assignment shall be pleaded unless by leave of the court or a judge.

Plea.

82. No plea which has already been pleaded to the declaration, shall be pleaded to a new assignment, except a plea in denial, unless by leave of the court or a judge, and such leave shall only be

granted upon satisfactory proof that the repetition of such plea is essential to a trial on the merits.

83. In actions of libel and slander, the plaintiff may aver that the words or matter complained of, were used in a defamatory sense, specifying such defamatory sense, without any prefatory averments to shew how such words or matter were used in that sense. and such averments shall be put in issue by the denial of the alleged slander or libel; and where the words or matter set forth, with or without the alleged meaning, shew a cause of action, the declaration shall be sufficient.

Libel and slander.

Averments.

84. In actions of slander, the precise words need not be proved as stated, provided the defamatory matter itself shall be substantially proved, nor shall it be necessary to aver or prove special damage where it shall appear that the words were defamatory, and were spoken falsely and maliciously.

Slander.

Proof.

85. In all personal actions, except actions for malicious arrest or prosecution, criminal conversation, or debauching the plaintiff's daughter or servant, the defendant may pay into court a sum of money, by way of compensation or amends, without any rule or judge's order for that purpose, except in the case of one or more of several defendants, when such leave must be obtained, and may be granted, on such terms as the court or a judge may think fit.

Compensation or amends in personal actions.

86. When money is paid into court, such payment shall be pleaded in all cases, and in any stage of the cause, as near as may be, in the following form:

Payment of money into court to be pleaded.

The defendant by — his attorney, [or in person,] [*if pleaded to part, say as to £— parcel of the money claimed,*] brings into court the sum of £—, and says that the said sum is enough to satisfy the claim of the plaintiff, in respect of the matter herein pleaded to.

87. When money is paid into court, the same shall be paid to the proper officer, who shall give a receipt for the amount in the margin of the plea, and the same shall be paid out to the plaintiff or his attorney on demand.

How paid in and received out.

88. The plaintiff after delivery of a plea of payment of money into court, shall be at liberty to reply to the same by accepting the sum so paid into court, in full satisfaction and discharge of the cause of action in respect of which it has been paid in, and he shall be at liberty in that case to tax his costs of suit; and in case of non-payment thereof, within twenty-four hours, to sign judgment for his costs of suit so taxed, or the plaintiff may reply that the sum paid into court is not enough to satisfy the claim of the plaintiff in respect of the matter to which the plea is pleaded, and in the event of an issue thereon being found for the defendant, the defendant shall be entitled to his judgment and costs.

Replication to such plea.

89. No rule or order for further time to plead shall be granted, unless the grounds of such application be disclosed by affidavit, and it shall then rest with the court or a judge, in their discretion,

Time to plead.

to grant such rule under the special circumstances of each particular case.

Filing pleadings.

90. It shall be imperative on the party, plaintiff or defendant, to deliver to the opposite party, or his attorney, as well as to file all pleadings within the time limited therefor.

All pleadings to be signed.

Counsel's signature unnecessary.

91. It shall not be necessary to have a counsel's signature to any pleading, but all pleadings shall be signed with the name of the party or his attorney.

Plea—not to be waived without leave

Set off—mutual debts.

92. The defendant shall not be at liberty to waive his plea without leave of the court or a judge.

93. Wherever there are mutual debts in the same right, one debt may be set off against the other, although such debts may be deemed in law to be of a different nature.

Pleas in bar, &c.—formal parts abolished.

94. In a plea or subsequent pleading, intended to be pleaded in bar to the whole action generally, it shall not be necessary to use any allegation of *actionem non*, or to the like effect, or any prayer of judgment, nor shall it be necessary, in any replication or subsequent pleading intended to be pleaded in maintenance of the whole action, to use any allegation of *precludi non*, or to the like effect, or any prayer of judgment; and all pleas, replications, and subsequent pleadings, pleaded without such formal parts, shall be taken, unless otherwise expressed, as pleaded respectively in bar or in maintenance of the whole action; provided that nothing herein contained shall extend to cases where an estoppel is pleaded.

Formal defence unnecessary.

95. No formal defence shall be required in a plea, and it shall commence as follows: the defendant by his attorney [or in person] says that

Second and other pleas, to be pleaded without leave.

96. It shall not be necessary to state in a second or other plea, or avowry, or cognizance, that it is pleaded by leave of the court, or according to the form of the statute, or to that effect, nor shall such leave be required.

One plea or replication to several counts or pleas allowable.

97. Where there are two or more counts substantially for the same cause of action, or two or more pleas raising substantially the same defence to the same cause of action, the defendant or plaintiff may, on suggesting the fact in his plea or replication, plead a single plea or replication to such counts or pleas, and when the opposite party insists that the cause of action or defence is not the same, he may apply to the court or a judge, who may set aside the plea or replication on such terms, or make such other order as shall appear to be right or just.

Bankrupts or insolvents—actions against.

98. In all actions by and against the assignees of a bankrupt or insolvent, or executors, or administrators, or persons authorised by act of parliament to sue or be sued as nominal parties, the character in which the plaintiff or defendant is stated on the record to sue or be sued, shall not in any case be considered as in issue, unless specially denied.

Discontinuance.

99. The plaintiff may discontinue at any time by filing either a discontinuance or a rule therefor, and thereupon the defendant may at once tax his costs of defence and enter judgment therefor.

100. Either party may, by leave of the court or a judge, plead and demur to the same pleading at the same time, and it shall be in the discretion of the court or a judge which issue shall be first disposed of.

Parties may plead and demur to same pleading.

101. Different causes of action, of whatever kind, except local causes arising in different counties, may be joined in the same suit, provided they be by and against the same parties and in the same rights, but the court or a judge shall have power to prevent the trial of different causes of action together, if such trial would, in their judgment, be inexpedient, and in such case may order separate issues to be made up and separate trials to be had.

Different causes of action may be joined.

102. All notices given in the progress of a cause between the attorneys, shall be received in evidence on an affidavit of the service thereof made by the attorney or his clerks, specifying the time and mode of such service.

Notices received in evidence.

#### VIEW.

103. View by jury is abolished, unless the judge on the trial shall think the same advisable, in which case, the whole jury shall, after being sworn, view the premises, and the judge may, in such case, for the purpose of the view, postpone further proceedings in the trial until such view can be had, but such postponement shall not be made for so long a time as to prevent the trial at the same term or sittings.

View.

#### EXECUTION.

104. Writs of execution shall be, as near as may be, in the form heretofore used, and shall be made returnable, either in sixty days, or to a particular return day.

Execution.

Return.

105. It shall be competent for the party suing out the writ, to direct by endorsement in what manner it is to be executed, which direction, the officer shall obey, and the party shall in all cases, specify upon the face of the writ, or by endorsement, for what amount it is to be levied.

To be executed according to direction endorsed.

106. No execution shall issue on a judgment until the bill of costs and record, or in a summary cause the bill of costs only, be filed.

When issuable.

107. When any member of the provincial parliament being taken under execution, shall be released by reason of his privilege, he may be taken under a new writ after the expiration of such privilege.

Against M. P. P.

108. Current gold and silver coin may be taken in execution, and may be paid to the creditor as money collected.

Coin.

109. Provincial and bank notes, and all bills or evidences of debt issued by any corporation, and circulated as money, may be taken in execution, and paid to the creditor at their par value as money collected, if he will accept them, otherwise they shall be sold as other chattels.

Bank notes and securities.

110. The necessary wearing apparel and bedding of the debtor and his family, and the tools or instruments of his trade or calling, and his last cow, shall be exempted from execution.

Property exempted.

To bind goods  
after delivery  
to sheriff.

111. No writ of execution shall bind the goods of the defendant but from the time the writ shall be delivered to the sheriff to be executed, and the sheriff shall, upon the receipt of the writ, endorse thereon the time at which the same was received by him.

Interest on  
judgments.

112. Judgments hereafter to be taken, shall, in all cases, bear interest, and the same may be levied for under execution.

Discharge from  
custody.

113. A written order, under the hand of the attorney in the cause by whom any writ of execution shall have been issued, shall justify the sheriff, jailor, or party in whose custody the party may be under such writ, in discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary, to such sheriff, jailor, or person in whose custody the opposite party may be; but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor, and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

Satisfaction  
pieces.

114. All satisfaction pieces shall be signed by the plaintiff or his personal representatives, or by any attorney specially authorised for that purpose, unless any judge upon special circumstances set forth in an affidavit, shall dispense with such requisites. The satisfaction piece may be in the form following:

In the supreme court — term 18—, satisfaction is acknowledged between — plaintiff and — defendant, for — and — costs.

Judgment entered on the — day of — in the year of our Lord one thousand eight hundred and — .

Scire facias.

#### SCIRE FACIAS.

Execution may  
issue within 6  
years without  
revival.

115. During the lives of the parties to a judgment, or those of them during whose lives execution may at present issue within a year and a day without a scire facias, execution may issue without a revival of the judgment, at any time within six years after the judgment.

Judgment—  
how revived.

116. In cases where it becomes necessary, by reason either of the lapse of time, or of a change by death, or otherwise, of the party entitled to execution, the party alleging himself entitled to execution, shall be allowed either to sue out a writ in the nature of a scire facias, to be called a writ of revivor, according to the form set forth in appendix A, number 10, or to apply to the court or a judge, for leave to enter a suggestion to the effect that it manifestly appears to the court, that he is entitled to execution of the judgment, and to issue execution thereupon, such leave to be granted by the court or a judge, upon a rule to shew cause, or a summons to be served as at present, or in such other manner as may be directed by such court or a judge, which rule or summons may be in the form given in appendix A, number 11; and upon such application, in case it manifestly appears that the party making the same is entitled to execution, the court or a judge shall allow such suggestion to be entered in the form given in appendix A, number 12,

Writ of revivor.

Suggestion.

and execution to issue, and order whether or not the costs of the application shall be paid by the applicant, and in case it does not manifestly so appear, shall discharge the rule, or dismiss the summons with or without costs, and the party applying shall, in such case, nevertheless, be at liberty to proceed by revivor or action, upon the judgment.

AMENDMENT.

117. The supreme court and every judge thereof, shall at all times have the power of amending all defects and errors in any proceeding in civil causes, whether there be anything in writing to amend by or not, and whether the defect or error be that of the party or not, and all such amendments may be made with or without costs, as to the court or a judge shall seem fit; and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties, shall be made.

Amendment.

Court or judge may amend defects, &c.

118. The party against whom such amendment shall be made, if dissatisfied therewith, may apply to the court for a new trial on that ground, and the court shall thereupon make such order as to a new trial, and the terms on which such trial shall be granted, or such other orders, as they may deem reasonable.

Party dissatisfied with amendment.

119. In all such cases the judge, instead of causing the writ, pleadings, issue, roll, or document to be amended, may direct the jury to find the facts according to the evidence, and such finding shall be stated on the writ, issue, roll, or document; and if the judge shall deem such defect or error immaterial to the merits of the case, and the misstatements such as could not have prejudiced the opposite party, he shall give judgment according to the justice of the case.

Amendment at trial—power of judge.

EJECTMENT.

Ejectment.

120. Actions of ejectment shall be commenced by writ of summons against all persons in possession of the property claimed, and shall in all cases be conducted as other actions, and damages may be given for the plaintiff on trial, and on judgment by default the plaintiff shall be entitled to costs, and the damages may be assessed, or form the subject of a separate suit, at the plaintiff's option.

Commencement of action.

Proceedings in, assimilated to other actions.

Judgment by default.

121. The writ shall describe the property claimed with reasonable certainty. It shall also state the names of all the persons in whom the title is alleged to be, and there shall be thereon endorsed, a notice, that if the defendant do not appear and defend the property sued for, or such part thereof as he may think fit, within the time specified in such notice, the plaintiff will be at liberty to sign judgment at the expiration of such time, and that the defendant may thereupon be turned out of possession. The writ shall be served in the same manner as other writs, or in such manner as the court or a judge shall order, under any peculiar circumstances; and in case of vacant possession, by posting up a copy thereof, upon

Description of property and of parties.

Notice to appear.

Service of writ

Vacant possession.

the door of the dwelling house, or other conspicuous part of the property.

Forms.

122. The following forms in ejectment shall be used, viz. : the writ appendix A, number 13; the notice endorsed on writ appendix A, number 14; judgment for non-appearance appendix A, number 15; judgment for plaintiff after appearance and plea, appendix A, number 16; and where other forms are requisite, they shall be assimilated to the above.

Who may appear.

123. Any person shall be permitted to appear, on filing an affidavit that he is in possession of the land, either by himself or his tenant, or who would now be entitled to appear, but the court or a judge shall have power to strike out or confine defences, set up by persons not so entitled.

Plea—when considered defence to whole.

124. A plea not confining the defence to a part of the premises, shall be considered a defence to the whole.

Defence may be limited to part of property.

125. Any person appearing, shall be at liberty to limit his defence by plea, to a part only of the property mentioned in the writ, describing that part with reasonable certainty.

Plea, substance of—forms.

126. The plea shall be confined to a denial in whole or in part of the plaintiff's right to the possession claimed, or to a right of possession in himself with the plaintiff as tenant in common with the plaintiff. The forms shall be those in appendix A, numbers 17 and 18.

Plea—want of certainty in.

127. Want of reasonable certainty in the writ or plea, shall not nullify it, but only be ground for application to the court or a judge, for better particulars to the land claimed or defended, which the court or a judge shall have power to give in all cases.

Mode of proceeding; where part of property undefended.

128. In case there be no appearance and plea within the time appointed, or if an appearance be entered but the defence limited to part only, the plaintiff shall be at liberty to sign judgment that the person whose title is asserted in the writ shall recover possession of the land, or of the part thereof to which the defence does not apply.

Issue.

129. In case an appearance and plea shall be entered, either for the whole or part of the premises claimed, the cause shall be considered at issue, and the parties may proceed thereupon to trial as in other actions, and the question at the trial shall, except in the cases hereinafter mentioned, be, whether the statement in the writ of the title of the claimant be true or false, in whole or in part, and if true, then which of the claimants, if more than one, is entitled, and also, whether he is entitled to any, and what damages for the wrongful withholding of the said premises.

Trial.

Action by joint tenants, tenants in common or coparceners.

130. In case of such an action being brought by some or one of the several persons entitled as joint tenants, tenants in common, or co-parceners, any joint tenant, tenant in common, or co-parcener in possession, may plead that he defends as such, and admits the right of the claimant to an individual share of the property, but denies any actual ouster of him from the property; and upon the trial of such an issue, the additional question of, whether an actual ouster

has taken place, shall be tried as at present in an action of ejectment.

131. In case the title of the claimant shall appear to have existed as alleged in the writ, and at the time of service thereof, but it shall also appear to have expired before the time of trial, the claimant shall, notwithstanding, be entitled to a verdict according to the fact that he was so entitled at the time of bringing the action and serving the writ, and to a judgment for his costs of suit.

Where plaintiff's title expires before trial.

132. If the defendant appears, and the claimant does not appear, at the trial, the claimant shall be non-suited: and if the claimant appears, and the defendant does not appear, the claimant shall be entitled to recover as heretofore, without any proof of his title.

Non-appearance of either party at trial.

133. Upon any judgment in ejectment for the recovery of possession and costs, there may be either one writ, or separate writs of execution for the recovery of possession and for costs, at the election of the claimants.

Execution.

134. The death of a claimant or defendant shall not cause the action to abate, but it may be continued as hereinafter mentioned.

Death of either party.

135. In case the right of a deceased claimant shall survive to another claimant, a suggestion may be made of the death, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the action may proceed at the suit of the surviving claimant: and if such a suggestion shall be made before the trial, then the claimant shall have a verdict, and recover such judgment as aforesaid, upon its appearing that he was entitled to bring the action either separately or jointly with the deceased claimant.

Death of one of several claimants.

136. In case of the death before trial, of one of several claimants whose right does not survive to another or others of the claimants, where the legal representative of the deceased claimant shall not become a party to the suit in manner hereinafter mentioned, a suggestion may be made of the death, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the action may proceed at the suit of the surviving claimant, for such share of the property as he is entitled to, and costs.

Where right does not survive to other claimants.

137. In case of a verdict for two or more claimants, if one of such claimants die before execution executed, the other claimant may, whether the legal right to the property shall survive or not, suggest the death in manner aforesaid, and proceed to judgment and execution for the recovery of possession of the entirety of the property and costs; but nothing herein contained shall effect the right of the legal representative of the deceased claimant, or the liability of the surviving claimant to such legal representative; and the entry and possession of such surviving claimant, under such execution, shall be considered as an entry and possession on behalf of such legal representative, in respect of the share of the property to which he shall be entitled as such representative, and the court may direct possession to be delivered accordingly.

After verdict and before execution.



Of sole claimant, or of one of several claimants before trial.

138. In case of the death of a sole claimant, or before trial of one of several claimants, whose right does not survive to another or others of the claimants, the legal representative of such claimant, may, by leave of the court or a judge, enter a suggestion of the death, and that he is such legal representative, and the action shall thereupon proceed; and if such suggestion be made before the trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased claimant, and such judgment shall follow upon the verdict in favor of, or against the person making such suggestion as hereinbefore provided, with reference to a judgment for or against such claimant; and in case such suggestion in the case of a sole claimant be made after trial, and before execution executed by delivery of possession thereupon, and such suggestion be denied by the defendant within twelve days after notice thereof, or such further time as the court or a judge may allow, then such suggestion shall be tried, and if, upon a trial therefor, a verdict shall pass for the person making such suggestion, he shall be entitled to such judgment as aforesaid, for the recovery of possession and for the costs of and occasioned by such suggestion; and in case of a verdict for the defendant, such defendant shall be entitled to such judgment as aforesaid for costs.

Of a joint defendant.

139. In case of the death before or after judgment of one of several defendants in ejectment, who defend jointly, a suggestion may be made of the death, which suggestion shall not be traversable, but only be subject to be set aside, if untrue, and the action may proceed against the surviving defendant to judgment and execution.

Of a sole defendant, or all the defendants.

140. In case of the death of a sole defendant, or of all the defendants in ejectment, before trial, a suggestion may be made of the death, which suggestion shall not be traversable, but only be subject to be set aside if untrue; and the claimants shall be entitled to judgment for recovery of possession of the property, unless some other person shall appear and defend, within the time to be appointed for that purpose by the order of the court or a judge, to be made upon the application of the claimants; and it shall be lawful for the court or a judge, upon such suggestion being made, and upon such application as aforesaid, to order that the claimants shall be at liberty to sign judgment within such time as the court or a judge may think fit, unless the person then in possession, by himself or his tenants, or by the legal representative of the deceased defendant, shall, within such time, appear and defend the action, and such order may be served in the same manner as the writ; and in case such person shall appear and defend the same, proceedings may be taken against such new defendant, as if he had originally appeared and defended the action; and if no appearance be entered, and defence made, then the claimant shall be at liberty to sign judgment pursuant to the order.

After verdict.

141. In case of the death of a sole defendant, or of all the defendants in ejectment, after verdict, the claimants shall nevertheless

less, be entitled to judgment as if no such death had taken place, and to proceed by execution for recovery of possession, without suggestion or revivor, and to proceed for the recovery of the costs in like manner as upon any other judgment for money against the legal representative of the deceased defendant or defendants.

142. In case of the death, before trial, of one of several defendants in ejectment, who defends, separately, for a portion of the property for which the other defendant or defendants do not defend, the same proceedings may be taken as to such portion as in the case of the death of a sole defendant, or the claimants may proceed against the surviving defendants, in respect of the portion of the property for which they defend.

Of one of several defendants before trial, defending for portion of premises.

143. In case of the death, before trial, of one of several defendants in ejectment, who defends separately, in respect of property for which surviving defendants also defend, it shall be lawful for the court or a judge, at any time before the trial, to allow the person at the time of the death in possession of the property, or the legal representative of the deceased defendant, to appear and defend on such terms as may appear reasonable and just, upon the application of such person or representative; and if no such application be made, or leave granted, the claimant, suggesting the death in manner aforesaid, may proceed against the surviving defendant or defendants to judgment and execution.

Do. where surviving defendant make defence.

144. The claimant in ejectment shall be at liberty at any time to discontinue the action, as to one or more of the defendants, by filing a discontinuance or rule therefor, as against such defendant or defendants, and giving notice thereof in writing to the defendant or defendants, as against whom the action is discontinued, and thereupon the defendant to whom such notice is given, shall be entitled to tax his costs of defence and have execution therefor.

Discontinuance as to one or more defendants.

145. In case one of several claimants shall be desirous to discontinue, he may apply to the court or a judge to have his name struck out of the proceedings, and an order may be made thereupon, on such terms as to the court or a judge may seem fit, and the action shall thereupon proceed at the suit of the other claimants.

By one of several claimants.

146. A sole defendant, or all the defendants in ejectment, shall be at liberty to confess the action, as to the whole or part of the property, by giving to such claimant a notice headed in the court and cause, and signed by the defendant or defendants; such signatures to be attested by his or their attorney, and thereupon, the claimant shall be entitled to, and may forthwith sign judgment and issue execution for, the recovery of possession and costs.

Defendants may confess as to part of property.

147. In case one of several defendants in ejectment, who defends separately for a portion of the property for which other defendants do not defend, shall be desirous of confessing the claimant's title to such portion, he may give a like notice to the claimant, and thereupon the claimant shall be entitled to, and may forthwith sign judgment and issue execution for, the recovery of such portion of the property, and for the costs occasioned by the

Also, one of several defendants who defends separately for a part.

defence relating to the same, and the action may proceed as to the residue.

148. In case one of several defendants in ejectment, who defends separately in respect of property for which other defendants also defend, shall be desirous of confessing the claimant's title, he may give a like notice thereof: and thereupon, the claimant shall be entitled to, and may sign judgment against such defendant for, the costs occasioned by his defence, and may proceed in the action against the other defendants to judgment and execution.

149. The effect of a judgment in such an action, shall be the same as that of a judgment in the present action of ejectment.

150. The jury may find a special verdict.

151. Upon finding for the claimants, judgment may be signed and execution issue, for the recovery of the possession, and for the damages awarded, and for the costs, as at present in the action of ejectment.

152. Upon finding for defendants, or any of them, judgment may be signed and execution issue, for costs against the claimants named in the writ.

153. The court and the judges thereof may exercise over the proceedings in the action, the same jurisdiction which is at present exercised in the action of ejectment, so as to insure a trial of the title, and of actual ouster when necessary.

#### REPLEVIN.

154. Replevin may be brought for an unlawful detention, although the original taking may have been lawful.

155. No writ of replevin, except where the property sought to be replevied has been distrained for rent or damage feasant, shall issue, unless the party applying therefor, or his agent, shall file an affidavit in the form, in appendix A, number 19, setting forth that he, or in case of an agent, his principal, has the right to the possession of the property contained in the writ as he verily believes, and that it is unjustly withheld from him.

156. In all cases of replevin, the plaintiff or his agent shall give security to the sheriff, in the form, in appendix A, number 20.

157. Notwithstanding the issue of a writ of replevin, the defendant or his agent, except in cases of distress for rent or damage feasant, shall have the right to retain possession of the property contained therein, if he shall give security to the sheriff in the form, in appendix A, number 21; such security given either by the plaintiff or defendant, shall be assigned on request to the party entitled to the benefit thereof, by the sheriff endorsing his name thereon, which endorsement shall be sufficient to enable such party to bring action thereon in his own name, against the several parties who have executed such security.

158. In actions of replevin, the jury shall be at liberty to award damages to either party in the suit.

Also, a defendant who defends separately for a part.

Judgment—  
effect of,  
Special verdict.

Verdict for  
claimants—  
execution.

For defendants.

Jurisdiction of  
court and judges  
in action.

Replevin, may  
be brought for  
unlawful deten-  
tion.

Affidavit to be  
filed.

Security to  
sheriff.

Defendant may  
retain possession.

Securities may  
be assigned by  
endorsement.

Damages may  
be awarded to  
either party.

## BAIL.

159. Bail to the sheriff shall continue bail to the action, and shall have the power of rendering the defendant whenever they shall see fit to do so. The bail bond to be in the form, in Appendix A, number 22.

Bail to sheriff to be bail to action. Rendering defendant.

160. A party who has given bail to the sheriff, which bail has justified when required to do so, may appear and defend the action without filing special bail.

Party having given bail, may defend without filing special bail.

161. The bail to the sheriff may be called upon to justify, on the return of the writ, and the sheriff shall be liable for taking insufficient bail, but he may relieve himself at any time before judgment by causing the defendant to be rendered, and upon payment of all costs which may have been incurred by the plaintiff in consequence of such bail being insufficient.

Bail—when to justify. Sheriff's liability.

162. The sheriff shall return the bail bond with the *capias* to the court where the writ is returnable, with an assignment thereon to the plaintiff, which assignment may be made by the sheriff endorsing his name thereon, and the same shall be sufficient to enable the plaintiff to bring action thereon in his own name against the several parties who have executed the same.

Sheriff's return.

163. In all cases where the writ of execution against the defendant in any action is returned *non est inventus*, and an action is prosecuted against his bail upon their bond, they shall be allowed to render their principal in discharge thereof at any time before the time for pleading has elapsed, if they pay to the plaintiff the costs which have been incurred in the action against them upon their bond.

Return non est inventus. Time for render in discharge of bail.

164. When the bail live above twenty miles from the place where the action is brought, or where the bail live within that distance, but the court shall not be in session, they may justify before a judge or a commissioner, by affidavit, and the judge or commissioner may examine the sureties upon oath, touching the value of their respective estates.

Justification where bail reside at a distance, or court not in session.

## SUMMARY TRIAL.

*See note 2 of 26*  
*262 4/1/45*  
*2 4/1/45*  
165. In actions for the recovery of debts, where the sum claimed, shall exceed twenty pounds, the trial may be without jury; as summary causes are now tried, but either party may of right, and without cause being shewn therefor, demand, and have the cause tried by a jury; and when the cause is first called, either party shall say whether a jury is demanded, and if not, the cause shall be marked "summary" and tried as summary causes are now tried; but the court may, if it see fit, order a jury for the trial thereof, either before or at the trials, although neither party shall demand the same.

Actions for debt may be tried without jury.

## MISCELLANEOUS.

166. All distinction of suing and being sued, as an attorney shall be abolished.

Distinction of suing as attorney, &c., abolished.

Rules for making up the docket.

167. In making up the docket of civil causes for trial, the prothonotary shall be guided by the following rules: 1st, All summary and appeal causes shall have precedence, except when ordered to be tried by a jury, and then they shall be entered on the docket, according to seniority, as declaration causes; such seniority in appeal causes, to bear relation to the issuing of the original writ. 2nd, When writs are filed on the same day, priority shall be regulated by the issue of the respective writs.

Continued jury cause when to be set down.

168. At Halifax, the lists of continued jury causes shall be given to the prothonotary, on or before the Thursday preceding the first day of term, and of new causes, on or before the last Thursday in term.

Docket, when to be called in Halifax. Attorney or counsel to state whether cause for trial,—whether to be defended.

169. At Halifax, the docket of continued causes shall be called on the first day of every term, and of new causes on the last day thereof, at or shortly after the opening of the court, and the plaintiff's attorney or counsel, when a cause is first called, shall be required to state whether he intends to try the same at the then next sittings; and in default of such statement the cause shall be struck out of the docket, and the attorney or counsel for the defendant shall be required to state whether he intends defending the same, and in default of such statement, the cause shall be struck out of the docket, and judgment, whether interlocutory or otherwise, may be entered up for the plaintiff, and further proceedings had as if no plea had been filed; but the court or a judge upon due cause shewn, and upon such terms as may be thought proper, may order any cause to be again placed on the docket for trial as if it had not been called.

Docket to be called but once.

170. The docket of causes for trial shall be called but once, both at the sittings in Halifax and on the circuit.

When to be called on circuit. Statement of Attorney or Counsel.

171. On circuit, the docket of new as well as of continued causes, shall be called on the first day of the term, at or shortly after the opening of the Court, and the plaintiff's attorney or counsel, when the cause is called, shall state whether he intends to try the same that term, and in default of such statement the cause shall stand continued, and the defendant shall, if the plaintiff signifies his intention to try the same that term, be required to state whether he intends defending the same, and in default of such statement plaintiff shall have a judgment.

Absence of a material witness.

172. No rule shall be granted for the continuance of a cause upon the ground of the absence of a material witness, unless the affidavit upon which the rule is applied for shall, in addition to the usual grounds, distinctly state that the party so applying has a just defence upon the merits of the case, and that the application is not made solely for delay, but to enable the applicant to substantiate his defence.

Motions arising during trial— but one counsel on each side heard. Trial—hearing counsel.

173. The court will hear one counsel only on each side, upon any motion arising during the trial of a cause; and if cases be cited in opposition to such motion, one counsel will be heard in reply.

174. When the defendant is about to produce evidence on a

trial, his counsel shall open the same succinctly to the jury, and after all the evidence on both sides has been adduced, counsel shall be entitled to address the jury thereon, after which the plaintiff's counsel shall be entitled to the general reply.

175. When the judge shall refuse to grant a rule nisi for a new trial, in a cause tried before him, and the counsel for the party shall, on or before the last day of term, or the sittings after term, in which the cause has been tried, file sufficient bail in such reasonable amount as the judge shall direct, to respond the judgment to be finally given in the cause, no judgment shall be entered up, until after the first four days of the next ensuing term at Halifax, in order to give such party an opportunity of moving the court at Halifax for a new trial.

*Pro. Lich. O.  
Act of 1793  
Res. p. 100*

New trial—  
when rule for,  
refused by  
judge.

176. No new trial shall be granted on account of evidence having been improperly received on any trial, if in the judgment of the court there be other evidence sufficient to sustain the verdict.

Grounds for.

177. The party in whose favor a judgment shall be given, shall be entitled to recover from the opposite party his taxable costs.

Costs on.

178. If the plaintiff in any action, not brought upon contract, express or implied, and heretofore deemed an action of trespass or trespass on the case, shall recover less damages than the sum of forty shillings on the trial of any issue, or on enquiry on default, he shall not recover any costs unless the judge before whom the issue is tried, or the assessment of the damages made, shall certify that the action was brought to try a right besides the mere right to recover damages for the trespass or grievance for which the action was brought, or that the trespass or grievance was wilful or malicious, or that the action was not frivolous and vexatious, and that the plaintiff had actually sustained damage to the amount recovered, and had by notice in writing, demanded compensation therefor, eight days before action brought; but nothing in this section shall be construed to deprive any plaintiff of his costs in any action for trespass on any lands, or for entering into any tenement in respect of which any notice not to trespass thereon shall have been previously served on or left at the last place of abode of the defendant, by or on behalf of the owner or occupier.

Where less than  
40s. recovered.

179. Any one of several defendants shall be entitled to his taxable costs when the plaintiff shall not prosecute his suit to final judgment against him, and also in cases where, upon the trial of the issue, a verdict shall pass in his favor, unless in case of a trial the judge before whom the trial was had shall certify at the trial that there was reasonable cause for making him a party to the action.

Defendant's  
costs, when  
plaintiff does  
not proceed.

180. Whenever it shall appear that the plaintiff had an opportunity in a prior suit of setting off his claim, and shall not give a satisfactory reason for not having done so, he shall pay the defendant his costs, and shall not be entitled to recover his own.

When plaintiff  
had opportunity  
in a prior suit of  
setting off  
claim.

181. In any action against an acceptor of a bill of exchange, or the maker of a promissory note, the defendant shall be at liberty

Stay of proceed-  
ings on pay-  
ment.

to stay proceedings on payment of the debt and costs in that action only.

Costs as between attorney and client. Excessive length of pleadings.

182. On the taxation of costs, as between attorney and client, no costs shall be allowed to the attorney in respect of any excess of length in any pleading; and in case any such costs shall be payable by the plaintiff to the defendant on account of such excess, the amount thereof shall be deducted from the attorney's bill.

Costs of new trial.

183. If a new trial be granted without any mention of costs in the rule, the costs of the first trial shall not be allowed to the successful party, though he shall succeed in the second.

Security for costs.

184. An application to compel the plaintiff to give security for costs, must in ordinary cases be made before issue joined.

If not given.

185. Where the plaintiff shall fail to give security for costs within twelve months after service upon him or his attorney of a rule or order therefor, he shall be deemed out of court.

Costs on rules.

186. On all rules made absolute, or discharged, and on all rules opposed in the first instance, the costs shall be allowed to the successful party, unless the court shall otherwise direct.

Costs of commissions. Depositions.

187. The costs attending the issuing of any commission, and of taking depositions thereunder when used on trial, shall be costs in the cause.

Costs of examinations de bene esse.

188. The costs of every rule or order for the examination of witnesses *de bene esse*, shall be costs in the cause, unless otherwise directed.

Taxation of costs.

189. The prothonotary shall examine and compare all bills of costs, that they contain no other or greater fees than are allowed by law, and before any such bill shall be charged against the plaintiff or defendant, it shall be allowed and signed by a judge.

Costs to be filed, and when.

190. All bills of costs when taxed, shall be filed among the bills of costs for the term, and every bill of costs taxed on any rule or proceeding in a country cause argued at Halifax, shall be filed immediately after taxation at Halifax, otherwise no execution shall issue for enforcing payment of such costs.

Notice of taxation—vouchers.

191. Before taxation of costs accruing in Halifax, one day's notice shall be given to the opposite party, his counsel or attorney in Halifax, and the bill, with all affidavits and papers substantiating the charges therein, shall be filed with the prothonotary previously to the giving of such notice, but notice of taxing costs shall not be necessary in any case where the defendant has not appeared in person, or by his attorney or guardian.

Interlocutory costs.

192. When interlocutory costs shall be taxed against any party, execution may be issued for the recovery thereof.

Interest—allowance of by court or jury.

193. Upon all debts or sums certain, the jury, or the court, or a judge where there is no jury, may allow interest to the creditor, at a rate not exceeding legal interest, from the time the debt or sum became payable, if payable at a certain time, under a written instrument; or if payable otherwise, then from the time a demand of payment in writing, containing a notice that interest will be claimed from the date of the demand until payment shall have been made.

194. The jury or the court, or a judge where there is no jury, may give damages in the nature of interest over and above the value of the goods at the time of the conversion or seizure, and over and above the money recoverable in any action on policies of insurance. Damages in the nature of interest.

195. Where a set off greater than the plaintiff's claim has been proved, judgment for the excess shall be given for the defendant. Set off exceeding plaintiff's claim.

196. Judgment may be ordered, as in case of a non-suit, for not duly proceeding to trial, and notice therefor may be given, notwithstanding a previous trial or trials of the cause may have taken place. Judgment for not duly proceeding to trial.

197. Final judgment may be signed by any judge, and the judge shall set down the date upon the docket, and the prothonotary shall mark on the record the day it was filed, but no marginal note shall be required thereon. Final judgment—how entered up.

198. No judgment shall have relation to any other day than the day on which it is signed. Date of.

199. The additions and place of residence of every person making affidavit, except the same is made in a cause by any of the parties thereto, shall be inserted therein. Affidavit—description of the deponent.

200. In all cases in which any particular number of days, not expressed to be clear days, is prescribed by this or any other act regulating the practice, or by the rules or practice of the court, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last shall happen to fall on a Sunday, Christmas day, Good Friday, or a day appointed a public fast or thanksgiving, in which case the time shall be reckoned exclusively of that day also. Computation of time. Sunday, Christmas day, &c.

201. When a judge's order is made a rule of court, it shall be a part of the rule of court that the costs of making the order a rule of court shall be paid by the party against whom the order is made, provided an affidavit be made and filed that the order has been served on the party or his attorney and disobeyed. Making judge's order a rule—costs of.

202. All causes for argument, whether upon demurrer, special verdicts, cases made, or rules nisi which have been granted, or causes in which the party has given bail to respond the judgment as hereinbefore provided, must be entered with the prothonotary at Halifax on or before the Tuesday preceding the first day of the term, and such entry shall be deemed notice to the opposite party to be prepared for the argument; and in case of such entry being omitted from neglect or other cause, judgment shall be entered against the party who ought to have made such entry, unless the court shall otherwise order. Causes for argument—Entry of.

203. In all cases where rules nisi have been granted to set aside verdicts, or which may otherwise delay judgment, the party who has obtained the rule shall enter the cause for argument on the Tuesday preceding the term. Of rules nisi to set aside verdict.

204. The party against whom any rule nisi has been granted may enter the cause with the prothonotary, and in such case the Ditto.



cause shall be placed on the list prepared by the prothonotary for the court in the order in which it first presents itself under the rule, and shall not be entered a second time.

Papers connect-  
ed with argu-  
ment, &c. to be  
filed.

205. The demurrer book, special verdict, case, judge's report and affidavits, or other papers upon which rules nisi have been granted, must be on file on the Tuesday before the first day of term at Halifax.

Rule nisi for  
new trial—  
when to be  
argued.

206. No rule nisi for a new trial shall be argued at the commencement of the term at Halifax unless the judge's report of the facts proved or the points reserved shall have been filed on the Tuesday preceding the term, which either party requiring the same shall apply for to the judge, and the judge will deliver his report to the prothonotary, who will furnish copies thereof to the parties requiring the same; and as the argument will be confined to the facts therein stated, it shall be competent for either party, on notice to the adverse party, to apply to the judge to alter or amend the same by his original notes, or otherwise by consent of the parties or on affidavit.

Rules nisi  
moved for first  
day of term at  
Halifax.

207. On the first day of term at Halifax, the court will pronounce judgment, if prepared so to do, upon such cases as have been fully argued, after which they will hear motions which do not require to be entered for argument in the order in which motions are now heard, beginning with the attorney general and proceeding through the bar according to priority.

Business of  
term at Halifax

208. When rules nisi are moved for on the first day of the term at Halifax, the court, on sufficient grounds laid, will grant the same without hearing the other side.

Priority of  
counsel—how  
regulated.

209. The subsequent days of the term at Halifax shall be devoted to hearing arguments upon the cases duly entered with the prothonotary, in the following order: the first case upon the attorney general's list; secondly, the first case upon the solicitor general's list, and so on through the whole bar, according to priority: after the first case upon the junior barrister's list has been heard, then the second case upon the attorney general's list, and so on until all the causes entered for argument have been heard. No *concilium* to be moved for upon demurrers, which will take their turn with other causes entered for argument.

Demurrers—  
no concilium to  
be moved for.

Argument how  
conducted.

210. The party who has obtained the rule nisi shall briefly bring under the notice of the court the grounds upon which the rule was granted. The opposite party shall then shew cause, and the party supporting the rule shall reply unless the court specially direct a different course.

Copies of papers  
for judges on  
argument.

211. The attorneys in the several causes for argument must provide each of the judges with copies of all papers necessary to be perused by them before the argument commences.

Summons and  
order.

212. It shall not be necessary to issue more than one summons for attendance before a judge at chambers upon the same matter, and the party taking it out shall be entitled to an order, unless cause to the contrary be shewn, or the judge shall refuse the same.

213. When a judge has power to grant an order, he may in place thereof grant a rule nisi returnable in term. Rules nisi may be granted by one judge.

214. The prothonotary at Halifax shall keep a book, wherein may be entered any judgment given which appertains to the supreme court of any other county, which shall be signed in the usual manner, and the prothonotary shall forthwith transmit to the prothonotary of the court in which such judgment is required to be entered, a correct transcript of the docket of judgment, and the prothonotary to whom the same may be transmitted shall copy such judgment into the county judgment book, and file the transcript with the papers in the cause; and the entry so made from the transcript shall have the like effect as if the same had been signed by a judge in the judgment book into which it shall be so copied, and the postage on the transmitting of any such papers shall be taxed as costs in the cause. Judgment, entries of—prothonotary's duty. Judgmentbook

215. In all cases not provided for in this act, the practice and proceedings of the court shall conform as nearly as may be to the practice and proceedings of the superior courts of common law in force previous to the first year of the reign of king William the fourth; and in all cases where the proceedings and practice of the superior courts of common law in England differ from each other, those of the court of queen's bench shall be followed. Practice in cases not provided.

216. The following chapters and sections, or portions of sections, of the revised statutes, are hereby repealed, viz: Chapters and sections revised statutes repealed—chapter 126, portion section 2, chapters 133, 134, 141, concluding portion section 1, and forms, chapter 144, section 11.

The concluding portion of the second section of chapter one hundred and twenty-six, embracing these words, "And there shall be two return days in each term, viz: the first and second Tuesdays therein."

Chapter one hundred and thirty-three.

Chapter one hundred and thirty-four.

The concluding portion of the first section of chapter one hundred and forty-one, embracing these words, "and shall be in the forms annexed hereto," together with the forms in such chapter prescribed.

The eleventh section of chapter one hundred and forty-four.

That portion of the table of costs and fees annexed to chapter one hundred and fifty-four, which regulates the fees of the prothonotary, commissioner, attorney and counsel, in the supreme court. Costs and fees.

217. Section seven of chapter seven of the public acts of the session of 1852, is also repealed. Section 7, chapter 7, public acts, 1852, repealed.

218. The repeal of such chapters or sections, or portions thereof, shall not affect any act done, or any suit or proceeding had or commenced in any civil case, before the time when such repeal shall take effect, but the proceedings in such cases shall be conformed when necessary to the provisions of this act; and the same, and all further proceedings to be thereon had, shall be under the control of the court, or a judge, who may make such orders in relation thereto, as may be necessary for attaining the ends of justice. Effect of such repeal.

Table of fees.

219. Fees for the services mentioned in the schedule to this act, denominated "table of fees" shall be as therein prescribed.

Penalty for taking excessive fees.

220. Any person taking greater fees, shall for such offence, forfeit to the party aggrieved, ten pounds, and also the amount of such excessive fees.

How recovered.

221. Actions for such forfeitures, shall be brought in the county where the offence was committed, and within six months next, after the date of such offence.

## PROTHONOTARY'S FEES.

Entering action, filing oath, warrant, and præcipe,	0	2	6
Sealing and signing every writ, execution, or other process,	0	1	0
Filing every writ, and entering return,	0	0	6
Filing declaration, and all other pleadings,	0	0	6
Entering appearance,	0	1	6
Entering and filing every rule of court,	0	0	6
Copy of every rule when given by prothonotary,	0	0	6
For drawing and striking a special jury, and for copies of the lists furnished to the respective parties, and all other services connected therewith,	0	10	0
Swearing and impanelling jury,	0	1	0
Swearing each witness or constable,	0	0	6
Taking and entering verdict,	0	1	0
Entering judgment,	0	2	0
The prothonotary at Halifax, for the entry of a judgment not belonging to the supreme court at Halifax, and for the transcript thereof,	0	2	6
Filing retraxit or discontinuance,	0	0	6
Copies of all papers, per folio,	0	0	6
Every exhibit in a cause filed in court,	0	0	4
Taking affidavit in court,	0	1	0
Filing affidavit,	0	0	6
Searching records,	0	0	6
Entering every default,	0	0	6
Drawing and taking every recognizance,	0	1	0
Entering every non suit,	0	0	6
Sealing and signing every subpoena,	0	1	0
Continuance of every cause,	0	1	0
Filing the roll in every cause,	0	1	0
Taxing bill of costs,	0	1	0
Certificate of judgment,	0	2	6
Ditto of discharge of ditto,	0	1	0

## IN SUMMARY SUITS.

Signing and sealing writs,	0	2	6
----------------------------	---	---	---

For all other services, including final judgment, when not tried by a jury,	0	2	6
For every alias summary writ and præcipe,	0	2	0

## IN SUB-SUMMARY SUITS.

Signing and sealing writ,	0	1	0
Signing judgment,	0	1	6
Every subpoena or ticket,	0	0	6

No commission shall be allowed or deducted from money paid into court under any rule or plea.

## COMMISSIONERS' FEES.

For administering oath and marking writ,	0	2	0
Taking depositions of witnesses, each witness,	0	5	0
And for taking depositions, per folio,	0	0	6
Travelling fees, when necessary, 3d. per mile.			

## ATTORNIES' FEES.

*In sub-summary causes.*

Attorney,	0	9	0
Subpœna and tickets, each,	0	1	0
Execution,	0	2	6

*In summary and appeal causes.*

For writ, præcipe, affidavit and declaration,	0	11	8
All other proceedings until final judgment,	0	15	10

*In all other causes.*

Retaining fee,	0	10	0
Warrant of attorney,	0	1	6
Præcipe,	0	1	6
Every writ, summons, or other original process,	0	5	0
Copy,	0	1	6
If containing declaration, 5s. additional.			
Particulars of demand,	0	2	0
Term fee,	0	5	0
Notice of trial, notice to produce, and other necessary notices in a cause,	0	3	6
Capias,	0	5	0
Copy,	0	1	6
Affidavit to hold to bail,	0	2	6
Entering appearance,	0	2	6
Brief and copies, not less than 7s. 6d. nor more than £5, to be taxed by the court.			
Every continuance,	0	1	0
Every discontinuance or retraxit,	0	1	0
Attending balloting or striking special jury,	0	10	0
Attending taking every inquisition before sheriff,	0	10	0
Making bill of costs,	0	1	6

Attending to get same taxed,	0	2	6
Arguing a demurrer, special verdict, motion for new trial, or other special motion,	0	10	0
Trial fee,	1	0	0
All rules and copies, each,	0	1	0
Every subpoena,	0	2	0
Every ticket,	0	2	6
Travel per mile for service, the same as to sheriff.			
Attending the examination of every witness taken before a judge or commissioner,	0	11	8
Every necessary attendance before a judge,	0	6	8
Every execution, habeas corpus, writ of error and writ of inquiry or revivor, each,	0	6	0
Drafting issue, per folio,	0	0	6
Engrossing same, per folio,	0	0	6
Drafting record, per folio,	0	0	6
Engrossing same, per folio,	0	0	6
All other drafting necessary to be done by an attorney in the conducting of a cause, per folio,	0	1	0
All necessary engrossing, per folio,	0	0	6

## COUNSEL FEES.

In summary, sub-summary or appeal causes, when tried before a jury, to be taxed by the court, not to exceed three pounds and ten shillings.

In all other causes after appearance and plea, to be taxed at the discretion of the judge, not to exceed five pounds, but not to be allowed in cases of default nor unless there shall have been a plea pleaded.

## APPENDIX A.

## No. 1.

SS.

Victoria, by the grace of God, &amp;c.

To the sheriff of \_\_\_\_\_, or to any other of our sheriff's.

We command you to summon C. D., of \_\_\_\_\_, to appear in the supreme court at \_\_\_\_\_, on the Tuesday of \_\_\_\_\_ next, at the suit of A. B., who says that the said C. D. is indebted to him [for work and materials provided by the plaintiff for the defendant, at his request, *or as the case may be,*] and he claims \_\_\_\_\_ pounds.

Issued this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 185

prothonotary.

E. F. plaintiff's attorney.

[or in person.]

## No. 2.

SS.

Victoria, by the grace of God, &amp;c.

To the sheriff of \_\_\_\_\_, or to any other of our sheriff's.

We command you forthwith upon security, being given according to law, to cause to be replevied to A. B., his cattle [or goods,] viz :

which C. D. of \_\_\_\_\_, unjustly detains as it is said ; and that you summon the said C. D. to appear in the supreme court, at \_\_\_\_\_, on the \_\_\_\_\_ Tuesday of \_\_\_\_\_ next, at the suit of the said A. B., who says that the said C. D. is unjustly detaining the said cattle [or goods.]

Issued this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 185 \_\_\_\_\_, prothonotary.

E. F. Plaintiff's attorney.  
[or in person.]

### No. 3.

SS.

Victoria, by the grace of God, &c.

To the sheriff of \_\_\_\_\_, or to any other of our sheriff's.

We command you to attach the goods and chattles or the estate of C. D. of \_\_\_\_\_, an absent or absconding debtor ; to the value of \_\_\_\_\_, and also that you summon the said C. D. to appear in our supreme court, at \_\_\_\_\_, on the \_\_\_\_\_ Tuesday of \_\_\_\_\_ next, at the suit of A. B., who says that the said C. D. is indebted to him [for money found to be due from the defendant to the plaintiff, on an account stated between them, or as the case may be,] and he claims \_\_\_\_\_ pounds.

Issued this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 185 \_\_\_\_\_, prothonotary.

E. F. plaintiff's attorney.  
or in person.

To be indorsed—

By oath for [insert the sum sworn to.]

### No. 4.

SS.

Victoria, by the grace of God, &c.

To the sheriff of \_\_\_\_\_, or to any other of our sheriffs.

We command you to summon C. D., an absent or absconding debtor, and E. F., of \_\_\_\_\_, the agent or trustee of the said C. D., to appear in our supreme court at \_\_\_\_\_, on the \_\_\_\_\_ Tuesday of \_\_\_\_\_ next ; the said C. D. then and there to answer to the suit of A. B., who says that the said C. D. is indebted to him [for money had and received by the defendant for the use of the plaintiff, or as the case may be,] and the said E. F. then and there to declare, discover and disclose what goods or credits of the said C. D. were in his hands or possession or under his management or

control at the time of the service of this writ upon him; and the said A. B. claims from the said C. D. pounds.

Issued this day of , A. D. 185 .

, prothonotary.

G. H., plaintiff's attorney.

[or in person.]

*To be indorsed—*

By oath for [*here insert the sum sworn to.*]

No. 5.

SS.

Victoria, by the grace of God, &c.

To the sheriff of , or to any other of our sheriffs.

We command you to take C. D. of , if he shall be found in your bailiwick, and him safely keep until he shall have given you bail or made deposit according to law, in an action at the suit of A. B., or until the said C. D. shall by other lawful means be discharged from your custody. And we do further command you that immediately after the execution hereof you do return this writ into our supreme court at , together with the manner in which you shall have executed the same, and the day of the execution thereof; or if the same shall remain unexecuted, then that you do return the same at the expiration of one month from the date hereof.

Issued this day of , A. D. 185 .

, prothonotary.

E. F., plaintiff's attorney.

[or in person.]

*To be indorsed—*

By oath for [*here insert the sum sworn to.*]

No. 6.

SPECIMENS OF FORMS.

*Particulars of demand.*

The following are the particulars of the plaintiff's claim :  
1849.

June 20.	Half year's rent to this day, of house and premises in street, Halifax,	£25	10	0
Sept. 12.	10 barrels of flour, at 25s.,	12	10	0
Dec. 1.	Money received by defendant,	17	0	0
		<hr/>		
		55	0	0
	Paid,	15	0	0
		<hr/>		
	Balance due,	£40	0	0

<i>or,</i>		
To butcher's meat and goods, supplied between the 1st of January, 1849, and the 1st January, 1850,	52	0 0
Paid,	20	0 0
Balance,	£32	0 0

*or,*

£50. Principal and interest due on a bond, dated the      day  
of

*or,*

£90. Principal and interest due on a covenant contained in a  
deed, dated the      day of      , to pay £100 and interest.

*or,*

£85 on a bill of exchange for £100, dated the 2d February,  
1849. Accepted [*or drawn, or endorsed*] by the defendant.

*or,*

£50 on a guarantee, dated the 2d February, 1849, whereby the  
defendant guaranteed the payment by E. F. of goods supplied, or  
to be supplied to him.

*In cases where interest is payable.*

The plaintiff also claims interest on £      of the above sum  
from the date of the writ until judgment.

## No. 7.

In the Supreme Court,  
on the      day of      A. D. 185

*[Day of signing the Judgment.]*

To wit : A. B., in his own proper person or by      his  
attorney,] sued out a writ of summons against C. D. with the  
particulars annexed as follows :

*[Here copy the particulars of demand.]*

And the said C. D. has not appeared, therefore it is considered  
that the said A. B. recover against the said C. D.      pounds,  
together with £      for costs of suit.

## No. 8.

Notice is hereby given to the defendant, that if he do not appear  
and plead, within four days after the return day of this writ, or in  
case the same shall not be served on him eight [*or fourteen or  
twenty-one, as the case may be*] days before such return day,  
then within twelve [*or eighteen or twenty-five, as the case may  
be*] days after such service, the plaintiff shall be at liberty to sign  
final judgment for any sum not exceeding the sum claimed in his  
particulars of demand, with interest at the rate specified, and costs,  
at the expiration of such time.

E. F., plaintiff's attorney.



## No. 9.

Cause.    {    A. B.  
              {    vs.  
              {    C. D.

I appear for C. D. the defendant, in this cause, [or in person.]  
E. F.

## No. 10.

## WRIT OF REVIVOR.

SS.

Victoria, by the grace of God, &amp;c.

To the sheriff of \_\_\_\_\_, or to any other of our sheriffs.

We command you that you summon C. D., of \_\_\_\_\_, to appear in the Supreme Court at \_\_\_\_\_; on the \_\_\_\_\_ Tuesday of \_\_\_\_\_ next, to shew cause why A. B. [or 'E. F., as executor of the last will and testament of A. B., deceased,' or as the case may be,] should not have execution against him [if against a representative, here insert, 'as executor of the last will and testament of \_\_\_\_\_, deceased, or as the case may be,] of a judgment whereby the said A. B. [or as the case may be,] on the \_\_\_\_\_ day of \_\_\_\_\_ recovered against him (or as the case may be,) £ \_\_\_\_\_, and that you notify the said C. D. that in default of his so doing, the said A. B. [or as the case may be] may proceed to execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 185

\_\_\_\_\_, prothonotary.

G. H., plaintiff's attorney.

## No. 11.

## FORM OF A RULE OR SUMMONS WHERE A JUDGMENT CREDITOR APPLIES FOR EXECUTION AGAINST A JUDGMENT DEBTOR.

[Formal parts as at present.]

C. D., to shew cause why A. B. [or as the case may be] should not be at liberty to enter a suggestion in an action, wherein the said A. B. was plaintiff, and the said E. F. was defendant, and wherein the said A. B. obtained judgment for £ \_\_\_\_\_ against the said E. F. on the \_\_\_\_\_ day of \_\_\_\_\_, that it manifestly appears to the Court, that the said A. B. is entitled to have execution of the said judgment, and to issue execution thereupon, and why the said C. D. should not pay the said A. B. the costs of this application, to be taxed.

NOTE.—The above form may be modified so as to meet the case of an application by or against the representative of a party to the judgment.

## No. 12.

## FORM OF SUGGESTION THAT THE JUDGMENT CREDITOR IS ENTITLED TO EXECUTION AGAINST THE JUDGMENT DEBTOR.

And now on the day of . . . , it is suggested and manifestly appears to the Court, that the said A. B. [*or 'E. F., as executor of the last will and testament of the said A. B., deceased, or as the case may be.*] is now entitled to have execution of the judgment aforesaid, against the said C. D. [*or 'against G. H. as the executor of the last will and testament of the said C. D. or as the case may be.*] Therefore it is considered by the Court, that the said A. B. [*or 'E. F. as executor as aforesaid, or as the case may be.*] ought to have execution of the judgment against the said C. D. [*or against G. H. as executor as aforesaid, or as the case may be.*]

## No. 13.

## FORM OF WRIT IN EJECTMENT.

SS.

Victoria, by the grace of God, &amp;c.

To the sheriff of .

We command you to summon G. H., J. K., and L. M. to appear in the Supreme Court, at . . . , on the Tuesday of next, at the suit of A. B., C. D., and E. F., who say that the said G. H., J. K., and L. M., withhold the possession to which the said A. B., C. D. and E. F., or some, or one of them, claim to be entitled, of a certain house and ten acres of land situate at . . . , in the county of . . . , and described as follows: [*describe the property with reasonable certainty*], and for the withholding of which they claim . . . pounds damages.

Issued this day of . . . A. D. 185.

. . . , prothonotary.

N. O., plaintiff's attorney.

## No. 14.

## NOTICE TO BE ENDORSED ON THE WRIT.

Notice is hereby given that if the defendant [*or, where more than one defendant, if any of the defendants*] do not appear and defend the possession of the property claimed by the within writ, or such part thereof as he [*or they*] may be advised, the plaintiff will be at liberty to sign judgment at the expiration of four days after the day named in the writ for the appearance of the defendants, or in case such writ shall not be served on them eight days before such return day, then within twelve days after such service, and the defendants may, thereupon, be turned out of possession.

## No. 15.

## JUDGMENT IN CASE OF NON-APPEARANCE.

G. H., J. K., and L. M., were summoned to answer A. B., C. D., and E. F., for withholding possession of a house and ten acres of land, situate at \_\_\_\_\_, in the county of \_\_\_\_\_; and described as follows\* :

And no appearance has been entered to the said writ, [*or where defence has been made to a part, except as to—(describe it,)*] Therefore it is considered that the said A. B., C. D., and E. F., do recover possession of the premises above mentioned, [*or where defence is to part, except as to part for which defence has been made as aforesaid,*] with the appurtenances, and also £ \_\_\_\_\_, for his cost of suit [*in cases where damages shall have been assessed. add,* and that he do also recover £ \_\_\_\_\_ for his damages assessed in respect of the withholding possession of the same by the defendant.]

## No. 16.

## JUDGMENT IN CASE OF APPEARANCE.

(*As in the last form to the\*.*)

And the defendants appear and defend the possession [*or of part thereof, (describing the part.)*] Jury impannelled and sworn, who say that the plaintiff's [*or one of them, as the case may be.*] are entitled to possession of the premises, [*or to the said part thereof;*] and they do assess damages for the detention thereof in the sum of £ \_\_\_\_\_, to be paid to the said A. B., C. D., and E. F.

Therefore it is considered that the said A. B., C. D., and E. F. do recover [*as above where judgment is for non-appearance,*] and also the sum of £ \_\_\_\_\_ by the jury assessed as aforesaid, together with costs of suit.

## No. 17.

## FORMS OF PLEAS IN EJECTMENT.

The said C. D., [defendant,] says that the plaintiffs are not, nor is either of them, entitled to the possession of the said messuage and lot of land claimed by them. [*Or if defendant, only defend for a part,*].—The said C. D. says that he only defends for a part of the premises claimed by the plaintiff, and which is thus described: [*describe it with reasonable certainty,*] and he disclaims all right and title in the residue of the said premises, or to the possession thereof; and as to the part for which he defends, says, that the said plaintiffs are not, nor is either of them, entitled to the possession of the part of the said premises above specified.

*Plea by landlord shall commence thus:* And E. F. admitted to defend as landlord of the said premises, (*or part thereof, describing the part,*) says that

## No. 18.

## FORM OF A PLEA UNDER TENANCY IN COMMON.

And the defendant says that he is tenant in common of the premises, (or part, as the case may be,) with the said plaintiff, (or with A. B., one of the said plaintiffs,) and defends as such, and admits the right of the said (*claimant*) to an undivided share of the said property, and denies any actual ouster of him from the said property.

## No. 19.

## In the Supreme Court.

A. B., of \_\_\_\_\_, in the county of \_\_\_\_\_, maketh oath and saith that he has the right to the possession of the following cattle, (or goods, as the case may be) to wit : \_\_\_\_\_, as he verily believes, and that C. D. unjustly detains the same.

## No. 20.

## REPLEVIN BOND.

(*Bond in the usual form from A. B., (plaintiff), and E. F. and G. H.*)

Whereas the said A. B. has sued out a writ of replevin against the said C. D. to obtain possession of certain cattle (or goods) to wit : \_\_\_\_\_, which the said A. B. asserts to be his property.

Now the condition of this obligation is such, that if the said A. B. shall not prosecute his suit with effect and without delay, or if suit is carried on and continued between the said A. B. and C. D. touching the property of the said cattle (or goods) and the court shall adjudge that the said cattle (or goods) shall be restored to the said C. D. with damages for detaining the same, then if the said A. B. shall restore the said cattle (or goods,) and pay and satisfy any judgment that may be obtained against him, this bond shall become void, but otherwise, shall remain in force.

(*Where the plaintiff himself does not join in the bond, the form must be altered to conform to the fact.*)

## No. 21.

## SECURITY GIVEN BY THE DEFENDANT TO OBTAIN RETURN OF THE PROPERTY.

(*Bond in the usual form from C. D., (defendant) and E. F. and G. H.*)

Whereas the said C. D. claims to retain certain cattle (or goods) to wit : \_\_\_\_\_, to recover possession of which the said A. B. has sued out a writ of replevin.

Now the condition of this obligation is such, that if the court shall adjudge that the said cattle (*or goods*) shall be restored to the said A. B., with or without damages for detaining the same, then if the said C. D. shall restore the cattle (*or goods,*) and pay and satisfy any judgment that may be recovered against him, this obligation shall be void, but otherwise, shall remain in force.

(*Where the defendant himself does not join in the bond, the form must be altered to conform to the fact.*)

### No. 22.

#### BAIL BOND.

(*Bond in the usual form from C. D., (defendant) and E. F. and G. H.*)

The condition of this obligation is such, that if the above bounden C. D. do appear in the supreme court at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, to answer to the suit of A. B., and in case judgment shall be obtained against the said C. D., if he shall satisfy such judgment, or shall render himself, or be rendered by the said E. F. and G. F. into the custody of the sheriff of the county of \_\_\_\_\_ then the said obligation to be void.

## APPENDIX B.

### SPECIMENS OF FORMS OF PLEADINGS.

#### *Statements of causes of action in the writ.*

To answer the said A. B., who says that C. D. is indebted to him for (*here state the subject of the claim as in the following forms,*) and the plaintiff claims \_\_\_\_\_ pounds :

For work done and materials provided by the plaintiff for the defendant, at his request.

For money lent by the plaintiff to the defendant.

For money paid by the plaintiff for the defendant, at his request.

For money received by the defendant for the use of the plaintiff.

For money found to be due from the defendant to the plaintiff on an account stated between them.

For a message and lands sold and conveyed by the plaintiff to the defendant.

For the good will of a business of the plaintiff, sold and given up by the plaintiff to the defendant.

For the defendant's use, by the plaintiff's permission, of messuages and lands of the plaintiff.

For the defendant's use, by the plaintiff's permission, of a fishery of the plaintiff.

For the hire of (*as the case may be*) by the plaintiff, let to hire to the defendant.

For freight for the conveyance by the plaintiff, for the defendant at his request, of goods in ships.

For the demurrage of a ship of the plaintiff kept on demurrage by the defendant :

Who says,—that the defendant on the            day of            A. D.            by his promissory note, now over due, promised to pay to the plaintiff            pounds, two months after date, but did not pay the same.

Who says,—that one A. B. on, &c. (*date*) by his promissory note, now over due, promised to pay to the defendant, or order,            pounds, two months after date ; and the defendant endorsed the same to the plaintiff, and the said note was duly presented for payment, and was dishonored, whereof the defendant had due notice, but did not pay the same.

Who says,—that the plaintiff on, &c. (*date*) by his bill of exchange, now over due, directed to the defendant, required the defendant to pay to the plaintiff            pounds, two months after date ; and the defendant accepted the said bill, but did not pay the same.

Who says,—that the defendant and the plaintiff agreed to marry one another, and a reasonable time for such marriage has elapsed, and the plaintiff has always been ready and willing to marry the defendant, yet the defendant has neglected and refused to marry the plaintiff.

Who says,—that the plaintiff and defendant agreed to marry one another on a day now elapsed, and the plaintiff was ready and willing to marry the defendant on that day, yet the defendant neglected and refused to marry the plaintiff.

Who says,—that the defendant by warranting a horse to be then sound and quiet to ride, sold the horse to the plaintiff, yet the said horse was not then sound and quiet to ride.

Who says,—that the plaintiff and the defendant agreed by charter party, that the plaintiff's ship, called the "*Ariel*," should, with all convenient speed, sail to R, or so near thereto as she could safely get ; and that the defendant should there lade her with a full cargo of tallow or other lawful merchandize, which she should carry to H, and there deliver on payment of freight, at £            per ton ; and that the defendant should be allowed ten days for loading and ten for discharge, and ten days on demurrage, if required, at £            per day ; and that the plaintiff did all things necessary on his part to entitle him to have the agreed cargo loaded on board the said ship at R, and that the time for so doing has elapsed, yet the defendant made default in loading the agreed cargo.

Who says,—that the plaintiff let to the defendant a house, No.            , for seven years, to hold from the            day of            , A. D. 185            at £            a year, payable quarterly, of which rent quarters are due and unpaid.

Who says,—that the plaintiff, by deed, let to the defendant a house, No. , to hold from the day of , A. D. ; and the defendant, by the said deed, covenanted with the plaintiff well and substantially to repair the said house during the said term, (*according to the covenant,*) yet the said house was, during the said term, out of good and substantial repair.

#### FOR WRONGS, INDEPENDENT OF CONTRACT.

A. B. says that the defendant broke and entered certain land of the plaintiff called the Big Field, and depastured the same with cattle.

That the defendant assaulted and beat the plaintiff, and gave him into custody to a policeman, and cause him to be imprisoned in a police office.

That the defendant debauched and carnally knew the plaintiff's wife.

That the defendant converted to his own use the plaintiff's goods, that is to say: iron hoops, household furniture, (*as the case may be.*)

That the defendant detained from the plaintiff, his title deeds of land called Belmont, in the county of , that is to say, (*describe the deeds.*)

That the plaintiff was possessed of a mill, and by reason thereof, was entitled to the flow of a stream for working the same; and the defendant by cutting the bank of the said stream, diverted the water thereof away from the said mill.

That the defendant falsely and maliciously spoke and published of the plaintiff the words following, that is to say:—"he is a thief."

(*If there be any damage here state it, with such reasonable particularity as to give notice to the plaintiff of the peculiar injury complained of; for instance,*) whereby the plaintiff lost his situation as , in the employ of

That the defendant falsely and maliciously printed and published of the plaintiff, in a newspaper, called " , " the words following, that is to say: "he is a regular prover under bankruptcies;" the defendant meaning thereby that the plaintiff had proved, and was in the habit of proving, fictitious debts against the estates of bankrupts, with the knowledge that such debts were fictitious.

#### COMMENCEMENT OF A PLEA.

The defendant, by , his attorney, (*or in person,*) says (*here state the substance of the plea.*)

And for a second plea the defendant says (*here state the second plea.*)

NOTE.—*The several pleas ought to be written in separate paragraphs, and numbered either with figures or in words, in the body thereof, to prevent confusion.*

## PLEAS IN ACTIONS ON CONTRACTS.

That he did not promise as alleged.

(*The plea is applicable to other declarations on simple contracts, not on bills and notes. It would be unobjectionable to use, "did not warrant," "did not agree," or any other appropriate denial.*)

That the alleged deed is not his deed.

That the alleged cause of action did not accrue within six years, (*state the period of limitation applicable to the case*) before this suit.

That before the action he satisfied and discharged the plaintiff's claim by payment.

That the plaintiff at the commencement of this suit, was and still is indebted to the defendant, in an amount equal to (*or greater than*) the plaintiff's claim, for (*here state the cause of set off, as in a declaration ; see forms ante.*)

That, after the alleged claim accrued, and before this suit, the plaintiff, by deed, released the defendant therefrom.

## PLEAS IN ACTIONS FOR WRONGS, INDEPENDENT OF CONTRACT.

That he did not commit the assault.

That he did what is complained of by the plaintiff's leave.

That the plaintiff first assaulted the defendant, who thereupon necessarily committed the alleged assault in his own defence.

## REPLICATIONS.

The plaintiff joins issue upon the defendant's                      pleas.

The plaintiff, as to the second plea, says (*here state the answer to the plea, as in the following forms.*)

That the alleged release is not the plaintiff's deed.

That the alleged release was procured by the fraud of the defendant.

That the alleged set off did not accrue within six years before this suit.

That the plaintiff was possessed of land whereon the defendant was trespassing and doing damage, whereupon the plaintiff requested the defendant to leave the said land, which the defendant refused to do, and thereupon the plaintiff laid his hands on the defendant to remove him, doing no more than was necessary for that purpose, which is the alleged first assault of the plaintiff.

## NEW ASSIGNMENT.

The plaintiff as to the                      and                      pleas, says, that he sues not for the trespasses therein admitted, but for trespasses committed by the defendant in excess of the alleged rights, and also in other



parts of the said land, and on other occasions and for other purposes than those referred to in the said pleas, (*as the case may be.*)

*(If the plaintiff replies, and new assigns, the new assignment may be as follows:)*

And the plaintiff as to the                      and                      pleas, further says, that he sues not only for the trespasses in those pleas admitted, but also for, &c.

*(If the plaintiff replies, and new assigns to some of the pleas, and new assigns only as to the others, the form may be as follows:)*

And the plaintiff as to the                      and                      pleas, further says, that he sues not for the trespasses in the                      pleas (*the pleas not replied to.*) admitted, but for the trespasses in the                      pleas (*the pleas replied to.*) admitted, and also for, &c.

actions Personal commenced by Jurors 17 4874  
 Form of need, not be indorsed in proceeding 22. 40772  
 Additions of parties making affid - 199 219  
 Felonem. non. abolished 97 110  
 Amendment, or objection to pleading, 59 61  
 " may be made 47 133  
 " Party, disqualified, may apply to court for new trial 118 134  
 " need not be formally made 119 135 Notices on 152.  
 Appearance - Form of Page 70 528  
 Time, for 26 30 227 25  
 May be made, at any time before Judgt 25.  
 Plaintiff, or party, might in any circumstance 26  
 " 30  
 By Defendant in person to contain address 32.  
 By one Defendant 33  
 By common Bail abolished 35.  
 Form of 35, page 528.  
 Abatement, not to be caused by death of Plaintiff or Def 44.  
 marriage of woman, Plaintiff or Def 50  
 attachment - Form of Page 67 524  
 Attornies - Discharge of Exm. justifier Sheriff 43. 129  
 " Should not be given without Consent of Client 43. 129  
 Distinction of being and being sued at, abolished 166. 103  
 Affidavits - Form of Witness must state certain particulars 179 190  
 addition of matters 199 219  
 Argument - Entry of 222. 223. 224.  
 Order of hearing Council on 209 229  
 Model of motion 240 230  
 In new trial, jury must be called 226

Bail. <sup>affidavit p. 5.</sup> Bond on Capias <sup>Form of p. 74</sup> & <sup>sect. 256.</sup> Form of p. 74 - sect. 256.  
 Common abolished. 35.  
 to Sheriff to continue Bail actions 159 176  
 may render defendant 159 176  
 may defend action 160 177  
 may be called on to justify 161 170  
 Sheriff reliable for taking insufficient 161 170  
 may relieve himself by rendering Def 161 170  
 to return Bail Bond with Capias 162 174  
 with assignment thereon 162 174  
 May render principal after Execution H.S. Dec 163. 1030  
 Justification of living 20 miles distant 164 1010

Bank Notes - may be taken by Execution 109 125

Bankrupts Aff of character in which party does not intervene 98 114  
 unless specially denied

Capias. Proceedings to obtain <sup>3</sup> Form of ~~68~~ page. 525  
One or more may issue. 65  
may be served within one month after dated 76

Bail on 76  
Deposit on 76  
Return of 76

Aff. Defendant by wrong name or initials 87

Party in custody in alt. discharged on common bail 78

Causes of Action, different may be joined ~~78~~ 117

Trial of may be prevented by Judge. ~~107~~ 117

Colour abolished ~~107~~ 101

Continuance - Entry of. Abolished 77 93

on ground that rule of that Part requires to. ~~off/dt 177~~. 190

Copies of Papers - demandable ~~77~~ 105

demand not to be day of proceedings 77. 106

Corporations - Writs against. 105

Costs on Plea of Non Joinder. 115

Amendment of Pleas 58. 59. 62

on Issues borne by the Party agt whom found 76. 92

on payment into Court ~~58~~ 104

on Discontinuance. 99 115

Bill of to be filed before Exhn Tob 122

Teire facias ~~106~~ 131

Expenses on Judgment by Defendant ~~107~~ 136

Party who obtains Judgment entitled to ~~107~~ 145

When less than 10/- is recoverable. ~~107~~ 197

By one of several Defts succeeding ~~107~~ 190

When Plff might have set off in former suit ~~107~~ 199

Not allowed between Affs & Defts. for excess ~~107~~ 201

Excess payable to Deft to Plff to be deducted from Affs Bill. ~~107~~ 201

on granting New Trial without mention of ~~107~~ 202

Security for, Rule must be had before issue. ~~107~~ 203

may be granted by Prothonotary 218 204

if not given within 12 mos Plff out of Court ~~107~~ 205

allowed to succeed full parties on rules ~~107~~ 206

of Commission. Costs in the cause ~~107~~ 207

of Writs, de bene esse, costs in cause ~~107~~ 208

to be examined by Prothj. before being allowed by Judge. ~~107~~ 209

Bills of to be filed ~~107~~ 210

in County, pauses argued at Halifax do ~~107~~ 210

Notice must be given at Halifax ~~107~~ 211

Interlocutory, Exhn may issue. for ~~107~~ 212

of making order, Rule of Court ~~107~~ 221

Country Judgts, Book of ~~107~~ 2, 3, 4, 242

Counts, 2 or more may be added for same cause. 76. 92

Defendant may plead single pleas to ~~107~~ 113

Court may exercise powers conferred ~~107~~ 61 & 62, 63

Set aside frivolous pleadings. ~~107~~ 70

Curia advisari out, abolished ~~107~~ 93

Damages, assessed, 28. 29.

Days, Rules regulating 200 220 150 157 152 153 154  
Death of Parties not to abate, Suit - 144 in Exec - 134, 135, 136, 137.  
of one of Parties 45  
" " to be suggested in Record 45.  
Plff, wh may within 2 years suggest death & proceed 46.  
defendant 47.  
Either Party, between verdict & Judgt - 48.  
Plff after interlocutory Judgt 49.

Declaration, to be included in Writ in <sup>149</sup> ~~any~~ cases X 4

Defence, Formal, <sup>impunity of 56, 57</sup> in plea abolished 96. 111  
Default - Judgt by, when part - are given 24.  
after Party may be let in to defend 26.  
when parts are not given 27.  
Assessment of damages 28. may be by Jury 29.  
Judgt after 28.

Deposit on Capias, X 6

Demand of Plea abolished 75. 90  
Demurrer, to pleading 59.  
Special 57. 60  
to state, that is pleaded by leave of. 64  
Judgment on 65, Form of 63, 66  
Joinder in 67, 66, 64.  
Matter of Law to be stated 65. 68

Discontinuance. <sup>229</sup> Plaintiff may make 99. 115

Docket for Trial, Rules for making up 107, 227. 1015.  
List of Causes at Halifax 108, 1026  
at Halifax to be called when 109, 1017  
on calling, Council to state causes for Trial 109, 189  
in default of statement; cause to be struck out 109. 109  
to be called, but once 170, 1017  
on circuit - calling of, and results 177, 1019

Duplicity

58. 61

Ejectment: Form of summons, <sup>528, 525</sup> 72. of Not. 72. of Judgt Non app 72 <sup>528</sup>

Judgt cases of app 529. of pleas 72. 529  
Propy. to be described by metes and bounds 79. 95  
Action of Commenced by summons 120. 136  
Conducted as other actions 120. 136  
in Action of damages may be given on Trial 120. 136  
Judgt by Deflt. Plff have costs 120. 136  
damages may be assessed or laid for separate 120. 136  
Writ to describe property with certainty 121. 137  
names of parties claiming 121. 137  
contain notice to Defendant 121. 137  
to be served as other Writs 121. 137  
in case of vacant possession 121. 137  
Forms in prescribed 122. 138  
who may appear in 123. 139  
Plea in 124. 140  
may limit defence 125. 141

Ejectment, plea in, must be denial of P<sup>l</sup>'s right 142  
 or a right with P<sup>l</sup> 142  
 Forms prescribed 142-225 142 p 320  
 Effect of want of certainty in 147. 143 - 329  
 Judgments on non appearance 128. 144  
 on appearance for Part 128. 144  
 Nature of issue in 147. 145  
 Question at Trial 147. 145  
 By Court - Inants Ten in common &c, plea 130. 146  
 When P<sup>l</sup>'s title expires before Trial 137. 147  
 Non suit, if P<sup>l</sup> does not appear at Trial 139. 148  
 if Deft does not appear - Claimant to recover without proof 132. 148  
 Effect of, may be in one & separate Writs 133. 149  
 death of party, not to cause abatement - 134. 150  
 Suggestion of Death of Claimant - 135. 151  
 when it does not survive 136. 152  
 Death of Party after verdict - 137. 153  
 Sole Claimant - 138. 154  
 of one of several Defendants 139. 155  
 a sole deft or all defts before Trial 140. 156  
 after verdict 141. 157  
 one of several defts. defend. s. respectively 142. 158, 159  
 Discontinuances as to one or more Defts 144. 160  
 by one or more claimants 145. 161  
 Second action 147. 163  
 Confession by Defts 146. 162, 164, 165  
 one of several 147. 164, 169.  
 Special verdict in may be found 150. 166  
 Execution after verdict for claimants 151. 167  
 " " " " for defendants 152. 169  
 Equitable power of Court & Judges 153. 170  
 Entry of Causes for argument 222, 244 223, 224  
 Enquiry Writs of 257. 247  
 Estoppel 257. 110  
 Execution Writs of, to be as heretofore 104. 120  
 Endorsement on 105. 121  
 amount to be levied, must be specified 105. 121  
 Not to issue, before Bill of Costs filed 106. 122  
 106  
 Against No. P. P. 107. 123  
 Gold & Silver may be taken under 108. 124  
 Promised Bank Notes, do " do " 109. 125  
 Wearing apparatus &c Excepted - 110. 126  
 Binds goods of Deft from delivery to Sheriff 111. 127  
 Interest may be levied for under 112. 128  
 discharge of by Atty, justified to Sheriff 113. 129  
 unless notice 113. 129  
 not satisfaction of Debt 113. 129  
 may issue without Scire Facias at any time within 6 years 115. 131

Executors or Adm<sup>rs</sup> in action by or apt their character } 118 114  
 not in issue unless specially denied }

Forms of Action need not be stated in proceedings & 2  
 proceedings not necessary to follow entirely ~~237~~.  
 the Statute need not be set forth in plea 96.  
 Formal parts of Pleas abolished 94. 110  
 defence in plea 95. 111  
 Fees. prescribed 219. 239  
 punishment for taking. Executions 220 239 240  
 Actions for taking do ——— 221. 240  
 Table of, page by 252  
 Pithy page 521  
 Common 522  
 Criminal 525

General Issue, prescribed by Statute abolished. 68. 71  
 abolished 74. 89  
 Gold and Silver may be taken under Execution 108 124

Husband & Wife, claims by, joined with husband claims 43.

Imparance, abolished 77. 93  
 Insolvent, Character of Plaintiff & Debt not in issue unless specially demurred 98 110  
 Insurance, Value of, actions on 75-78 75  
 Inspection of Documents 72. 815  
 Interest may be levied <sup>in money</sup> under <sup>the stay of process</sup> 112. 125  
 given by Jury on debts on sums certain 113 219

Issues, <sup>also verdict 230</sup> costs of to be borne by parties agt whom found 92 76.  
 Jury to find on each 76. 92  
 in action agt ussurers & 114  
 for conversion of Goods 114. 214

Joinders of to many plaintiffs not fatal 36.  
 non. a variance amendable 38.  
 When dft given notice 39.  
 If too many, Defts 40  
 non. plea in abatement of 41.  
 Costs on 41.  
 Husband and Wife 43.  
 of diffult carrier of action 117

Judge may set aside frivolous proceedings 77. 70  
 order pleadings to be amended for duplicity & 8. 61  
 order Copy of papers, inspection & 70. 815  
 plans in Trespass 80 96  
 Grant further time to plead on affidavit 89 105  
 allow waiver of plea 108  
 set aside plea to 2 or more counts 97. 113  
 order whether issue in Law or fact be disposed of first 100.  
 prevent trial of diffult causes of action together 101. 117  
 Grant order, retble in Term 218. 233  
 may try issues a part of count 246

**Judgment.** in case of. Non appear when particulars annexed 244.  
 Dfts may be set on after, under circumstances 26.  
 in case of non appear when parts not given 27.  
 agt and of several Dfts 33.  
 on questions raised, without pleading 57.  
 Payment of money into Court 88. 107  
 prayers of & pleas se. abolished. 94. 110  
 on discontinuance 115. of nonsuit through Trials had 196. 216  
 to have interest 122. 128  
 relation of 198. 2107  
 in ejectment on default 220. 144  
 on set off Exceeding Plffs claims 195. 215  
 Final signed by Judges 197. 217  
 on causes argued at Malaga 207. 228  
 Books to be kept by prothonotary at Malaga 234  
 may be provisionally at Chancery 235  
 in Part of County & ducts June Sept 1811, 242  
 Form of a dft et hoc 528

**Libel and Slander.** averments required 83. 99, 100  
 how put in issue 83. 99  
 precise words need not be stated 84. 100.  
 Special damage 84. 100  
**Leave of Court.** need not be stated in second plea 96. 112

**MARRIAGE,** not to cause abatement 50.  
 Appeals and Bonds in Ejectment & Trespass 79. 95  
 No. P. P. released by privilege, may be taken again 107. 123  
 Motions, Court hear only one counsel on each side 173. 191  
 if cause entered one in reply 173. 191

**Notice,** to appear and plead 91. Form of page 94. 98. 224.  
 of trial may be endorsed on summons. 226.  
 must be 24 or 27 days 254. 1024  
 to progress of causes proved by Appt of Mny or Clerk 102. 110  
 of layalation of Courts 174. 211  
**New assignment,** pleadable by leave only 84. 97  
 plea to 85. 99  
**New Trial,** after amendment (vidi 78 et Trial.)  
**Nominal Parties.** character of Plff not in issue unless } 98. 114  
 Specially denied — }

**A de Lat** - indemnity on 112

**Order of Judge,** cost of making, new rule of Court 204. 221  
 Oyer, Abolished 94. 114

Papers to be filed before argument of Nisi 226 231  
Particulars of claims to be endorsed on Writ 72 Form of Page 88 225  
otherwise in Judgt by Diffn 87 103  
must give credit 110  
adversary affidavit, must admit adverse claim 21.  
Summons obtainable from Judge or Party 22.

Particulars of demand, Time for pleading after 23.  
for further, obtainable from Judge 22.  
in bespan demandable 88 96

Payment into Court, in all personal actions, except, small, pro crim 101 225  
Form of Plea 88 102  
How made 87 103  
" paid out 87 103  
Replication to 88 104

Pleas, may be ordered to be interchanged in bespan 88 96  
must be pleaded 229 102

Plea demand of, abolished 76 96  
Formal defence, abolished 95 comment: of do 95 111

Waive of by leave of Judge, 92 108  
second, need not state leave of Court 96 112  
form of statute 96 112

Commencement of page 76 78 533, 534  
Plead Notice to 31. Rule to Plead 90  
time to plead 23.

Further time 89 105  
Pleadings sufficiency of, if necessary, facts stated 54. Form: of 97 112

unnecessary statements to be omitted 55.  
may be struck out 55.  
demurrer to 55.

Special 57 60  
duplicity of 59 61

amendment of 59 61  
demurrer pleaded, by leave 64 62

in default of argument 64 62  
in argument of 64 62  
Form of Plead 68 Form of Plead in 64.  
matter of law to be stated 68.

Nisi debit, not allowed 229 22  
Color, Propter, oyer, special traverser abolished 64 64

party, may set out of whole of Document de 72 67  
Conditions precedent 72 68  
issue of County in 2. 72 68

General Issue abolished 88 82 69  
at Common Law 74, 74 84

never was indebted 229, did not promise 229 73  
On Contracts, conditions upon contract to plead 229 73

For more counts for one cause of action 76 97 92  
Form of Plead 75. in special 76  
Jury drawn continuance 97. In Pleading 91 110

in action for wrongs, plea of did not do, operation of 229  
in contract, and 73 74  
new assignment 73 74  
filed to 82 98

Libel and slander 82 100  
Summary Causes 229 56

Payment into Court 85 86 87 88. 101, 102, 103, 104  
to be filed and delivered 92 106

Counsel's signature not required 94 107  
to be signed, Party or Attorney 94 107

Special Pleas necessary in all actions of Contract 229 230 231 232 233 234 235 236 237 238 239  
pleas of contract, abolished 94 119  
prayers of Judgment 94 110  
precluded now 94 110  
shall be considered to bar 94 110



Pleading, pleas, Forms of, page <sup>531 532 533 534</sup> 74. 75. 76. 77.  
 Practice in cases not provided for <sup>238</sup> ~~212~~. Rules for ~~258~~, 237  
 Prayer of Judge, abolished ~~94~~. 110  
 Precludi non \_\_\_\_\_ ~~94~~ 110  
 Profert \_\_\_\_\_ ~~69~~ 84  
 Quis daretur, continuance ~~77~~, 78, ~~94~~  
 Promissory Note, date of ~~249~~, 102

Questions, Raised without Pleading, 51, 52, 53  
 -

Record, to be filed before Execution ~~106~~, 122  
 marked, filed by the Party on the day ~~197~~, 217  
 non marginal note shall be required ~~197~~, 217  
 on debt or default, page ~~69~~, 526

Repeal of Statutes, 216, 217.  
 not to affect acts done 218.

Replevin, Form of, page ~~69~~, 530,  
 may be brought for unlawful detention, ~~154~~, 171  
 before writ issued Affat. required ~~155~~, 172  
 Security to be given to Sheriff ~~156~~, 173  
 Debt may retain property on giving Security, ~~157~~ } 174  
 except for rent, damage peasant - ~~157~~ } 174  
 Security assignable ~~157~~, 174  
 damage may be awarded ~~158~~, 175  
 Affidavit, Form of, page 73, 529  
 Bond \_\_\_\_\_ 73, 530  
 Security to be given by Debt, page 72, 530

Repudiation - In pleading, after Plea in abatement a Plea to

# Return of Capias 76

~~Spring Term 1866, p. 3~~  
~~to state day of term of No. P. 13.~~  
~~beginning of 19. 10~~

Revivor, Writ of Habeas Corpus, Form of, page 40. 526

Rule to plead, abolished 74 96  
for further time to plead 89, 105  
" " " " obtainable on Affidavit 89, 105  
for discontinuance 99, 115  
Nisi, Papers to be filed, before argument of 215, 220, 231  
granted on sufficient cause, without hearing 208, 227  
argument of, order of 209  
for return, or return, Bail 193  
Power to Judge to make 237  
in cases not provided for 238

## Satisfaction pieces, Form of, See 114, 130

Scire facias on death of Parties, No. 131  
Form of summons in lieu of, page 40. 526

Set off to be pleaded 20.  
Suggestion — 74 132  
particulars of to be endorsed on plea 20.  
to give credits 20.  
in default of a nullity 20.  
in case of scilicet Pledges and some only succeeding 37.  
mutual debts, though of different natures may be 393. 109

Sheriff to state day of service of Writs of No. P. 13.  
Judge for if it exceeds Pledges claim 215

Special Traverse abolished 69.  
Stay of proceedings when action is diff. parties to recover a bill 3 181.

Summary Writs to be marked when under £20.  
such no plea required in 229.  
Trials in all actions for debt may be had 165. 245. 246.  
Jury demandable in 165.

## Summons Form of page 56. no 222.

523, 524, 527  
Actions to be commenced by 2.  
to be subscribed, by name of Abode of Party or name of Adm. 3  
to be abolished 3.

Sunday, no Writs of No. P. to be served on 14.  
Judge at Cham, one only, required 212, 232

Suggestion form of page 527

Testes of all Writs abolished ~~77~~. 3

Time how reckoned 200. 2 20

Trespass, property to be described by metes and bounds <sup>93</sup> 79  
particulars on demandable 82. 9 6

Trial, counsel of Dft may open succinctly <sup>192</sup> 177. 257.

address Jury after evidence called <sup>192</sup> ~~177~~ 257

Pltff has general reply 177. 192

Notes of 226. 251. 252. may be evidence on jurm. 19  
when refused, Bench given 193

New Trial, after amendment <sup>192</sup> 178. Costs on 278. 196  
on act of impetum receipt of indum 194

Adjournment of ~~177~~.

Repeat of by Judge, proceedings to prevent Judgt <sup>193</sup> 175.

on what grounds granted 176 194

costs of when not mentioned 182. 196

Rules nisi before argument. Judge report <sup>228</sup> 206.

when refused by Judge <sup>193</sup> 176. 257.

Mitting off or affidavit. of absence of pltff 190.

Venue, not to be changed without order, unless by consent 230. 57 58  
name of the county taken to be 231. 58

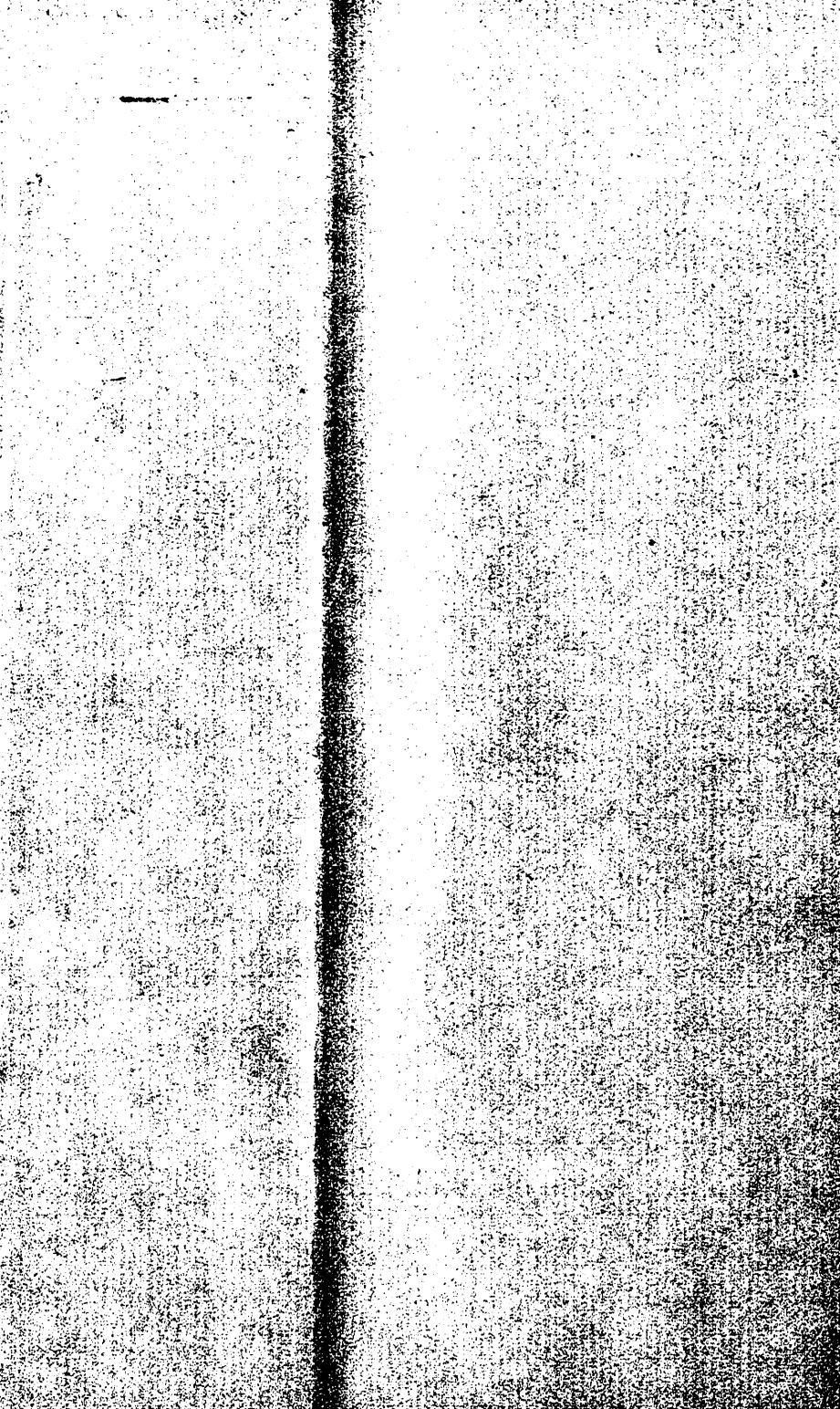
Vice Comes, non, nisi, breve, abolished 77. 93

View, abolished 103. in utrum, Cogen 119

allowed if Judge on Trial thinks it advisable 103. 119

not to cause postponement Trial, by the same Term 103. 119

Warrants of Attorney, not necessary to file. 34.  
Writs. Teste abolished ~~3~~ <sup>by codes</sup> ~~3~~ <sup>repeal</sup> 243, 244, 245  
to be dated day of issue. ~~3~~  
to contain declaration ~~4~~  
of Mesne, Process returnable <sup>when</sup> ~~over a term~~ ~~9~~  
Not to be served on Sunday. <sup>11</sup> ~~13~~ <sup>Endorsement of it</sup> ~~12~~  
Service to be personal ~~14~~  
in special cases application to a Judge or Court ~~14~~  
Against Corporations ~~15~~. 15.  
Plurimorum, etc. ~~16~~.



## CHAPTER 5.

### An Act to facilitate legal Proceedings against Companies doing business by Agents in this Province.

[Passed 4th day of April, A. D. 1853.]

**SECTION.**

1. How to be sued.
2. Time for communicating with principal
3. Judgment against company—liability of agent.

**SECTION.**

4. Agent may be examined after judgment.
5. Plaintiff may proceed by attachment.
6. Other remedies not affected by this act.

Be it enacted, by the governor, council, and assembly, as follows :

1. Companies or bodies corporate associated or incorporated out of Nova Scotia, doing business by an agent within this province, may be sued for any cause of action arising in whole or in part therein, by the name whereby they are associated or incorporated, or by the name whereby they may be designated by the agent, and service on the agent of process to appear, shall give the court jurisdiction over the case ; and proceedings shall be had as when process to appear has been served on a defendant personally, and any person so served, may during the first term appear and shew that he is not an agent ; and upon proof thereof, he shall have judgment against the plaintiff with costs of suit.

How to be sued.

2. The court may on sufficient cause shewn, allow time for the agent to communicate with his constituent.

Time for communicating with principal.

3. If judgment shall pass for the plaintiff, the agent, whether the same agent who was served with process or any other, shall be bound to respond the same out of the assets of the company, or body corporate, which then are, or at any time afterwards may come into his hands, or under his control, deducting his costs and fair and legal commission thereon, to be disclosed by the agent on oath, if thereto required.

Judgment against company—liability of agent.

4. After judgment, the agent may be examined on oath before the court or a judge at chambers, concerning the assets of the company, or corporate body, in his hands, or under his control at the time of judgment, or at any time afterwards, and the plaintiff and his proof may be heard in explanation or contradiction, and such order shall be therein made as to justice may appertain, which shall be enforced against the agent personally.

Agent may be examined after judgment.

5. If the plaintiff shall desire security previous to judgment, he may at the commencement of the suit, or during its progress, make oath to the cause of action, and proceed by attachment against the estate and effects of the company, or corporate body, and by summons to disclose against the agents and debtors of the company, or corporate body, or by either process, and by one or

Plaintiff may proceed by attachment.

in separate and several writs; and the estate and effects attached, and also the credits and effects in the hands or under the control of the agents or debtors at the time of service, or at any time afterwards, shall be available to respond the judgment to the amount of the sum sworn to and costs, as in cases under the absconding debtor's acts; but the plaintiff may nevertheless proceed against the agent after judgment, as before directed.

Other remedies  
not affected by  
this act.

6. Nothing in this act contained, shall prevent the judgment from binding the property of the company, or body corporate, or from being levied and enforced by execution or otherwise, in such manner as may be conformable to law in other cases.

## CHAPTER 6.

An Act to amend Chapter 115 of the Revised Statutes, "Of the descent of Real and Personal Estate."

[Passed the 31st day of March, A. D. 1853.]

## SECTION.

1. Distribution of intestates' personal estate.

## SECTION.

2. Allowance to widow in addition to that prescribed by rev. stat. c. 15, s. 9.

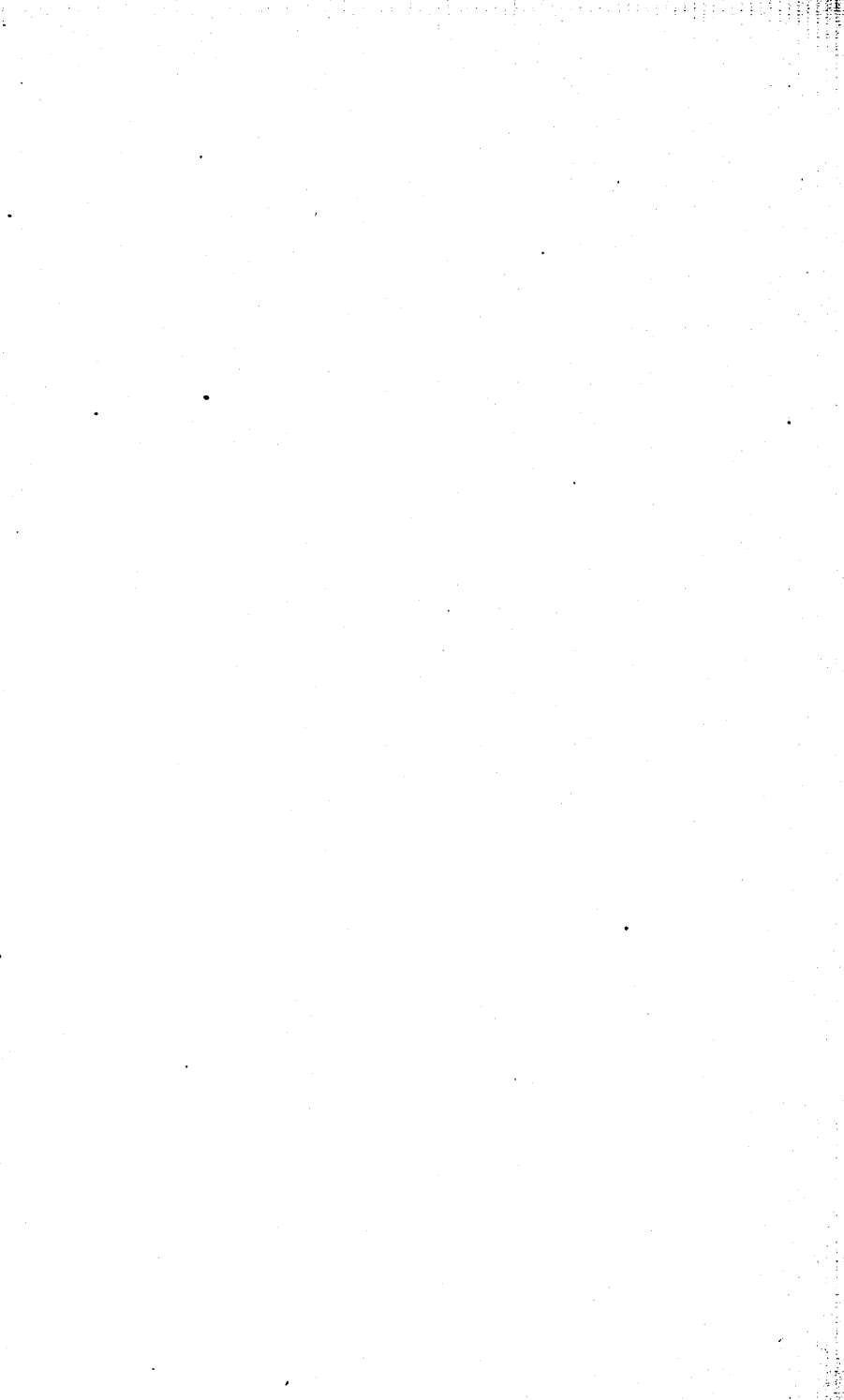
Whereas doubts may be entertained of the meaning of part of Preamble. the ninth section of such chapter.

Be it therefore declared and enacted as follows :

1. The residue of the personal estate of any intestate who shall have died without issue, shall be distributed, one-half to the widow if any, and the other half among the persons who would be entitled to the real estate ; and if there be no widow then the whole among such persons. Distribution of intestates' personal estate.

2. In addition to the articles allowed to the widow under the provisions of such chapter, she shall be allowed such provisions and other necessaries for the use of herself and the family under her care, as shall be allowed and ordered by the judge of probate. Allowance to widow in addition to that prescribed by rev. stat. c. 15 s. 9.





## CHAPTER 7.

## An Act to authorize equitable defences to Actions of Ejectment.

[Passed the 31st day of March, A. D. 1853.]

## SECTION.

1. Equitable defences may be set up.  
Tender, payment, set off—when pleadable. Particulars of demand and set off. Right of redemption—release of.
2. Sale and distribution of proceeds.

## SECTION.

3. Non-compliance with order for sale or re-conveyance.
4. Writ of possession—not issued without leave.
5. Proceedings in equity—when barred by proceedings hereunder.

Be it enacted by the governor, council, and assembly, as follows :

1. On the trial of any action of ejectment, the defendant may set up any equitable defence which would be available in the court of chancery, in case the subject matter were under adjudication in that court, and if the plaintiff shall claim title under a mortgage or other contract, or the defence be founded on any defeazance, bond for a deed, contract, or other agreement, whether the action be brought for the foreclosure of a mortgage, or otherwise, the defendant may give in evidence, tender payment, set off or other equitable defence, if he shall, at the time of filing his plea, or subsequently by leave of the court or a judge, who are hereby empowered to grant such leave in any stage of the cause, have given notice in writing of the nature of the defence on which he intends to rely, and particulars of demand and set off may be obtained as in other actions, and in all such cases the defendant having the right of redemption or equitable estate in the lands, may pay to the plaintiff or bring into court the amount due with costs; and thereupon the court by rule or a judge by order, may compel the lessor of the plaintiff to make such conveyance or release as may be agreeable to equity.

2. If the justice of the case require it, the court or a judge may make an order for the sale of the premises sought to be recovered or any part thereof, and for the application of the proceeds, and for the release or other re-conveyance of the same, or any part thereof, at any time before the sale: provided always, that before the court or a judge shall order such distribution of the proceeds, it shall be made appear, that all persons interested have had reasonable notice by advertisement or otherwise of such application.

3. In case the lessor of the plaintiff or any defendant shall refuse or neglect to make or perfect any such conveyance, the court or a judge may order such conveyance to be made by the sheriff, which when confirmed by the court or a judge, shall have the same operation and effect, as if made by a master of the court of chancery under a decree or order of that court.

Writ of possession—not issued without leave.

Proceedings in equity—when barred by proceedings hereunder.

4. Where the proceedings are had under this act, no writ of possession shall issue without the leave of the court or a judge.

5. Any defendant having an equitable defence of which he might avail himself under this act, and neglecting or refusing so to do, shall not be at liberty, without leave of the supreme court or a judge thereof, to apply for relief to the court of chancery.

## CHAPTER 8.

## An Act to extend the operation of the Law relating to Petty Trespasses and Assaults.

[Passed 31st day of March, A. D. 1853.]

SECTION 1. Offences in 7, 8, 9, and 10, rev. stats. declared under jurisdiction of justices of the peace.

Whereas doubts have been expressed as to the jurisdiction of Preamble. justices of the peace over the offences enumerated in sections seven, eight, nine and ten of chapter 147, of the revised statutes, "Of petty trespasses and assaults.

Be it declared and enacted, by the governor, council, and assembly, as follows :

1. The offences enumerated in sections seven, eight, nine and ten of such chapter 147, are hereby declared to be under the jurisdiction of one or more justice or justices of the peace according to the amount of penalty sought to be recovered.

Offences in 7, 8, 9, and 10, rev. stats. declared under jurisdiction of justices of the peace.



## CHAPTER 9.

## An Act relative to the appointment of Constables to attend the Supreme Court and Sessions in Halifax.

[Passed the 31st day of March, A. D. 1853.]

## SECTION.

1. Constables—how appointed.

## SECTION.

2. To attend supreme court at Halifax during easter term, 1853.

Be it declared and enacted by the governor, council, and assembly, as follows :

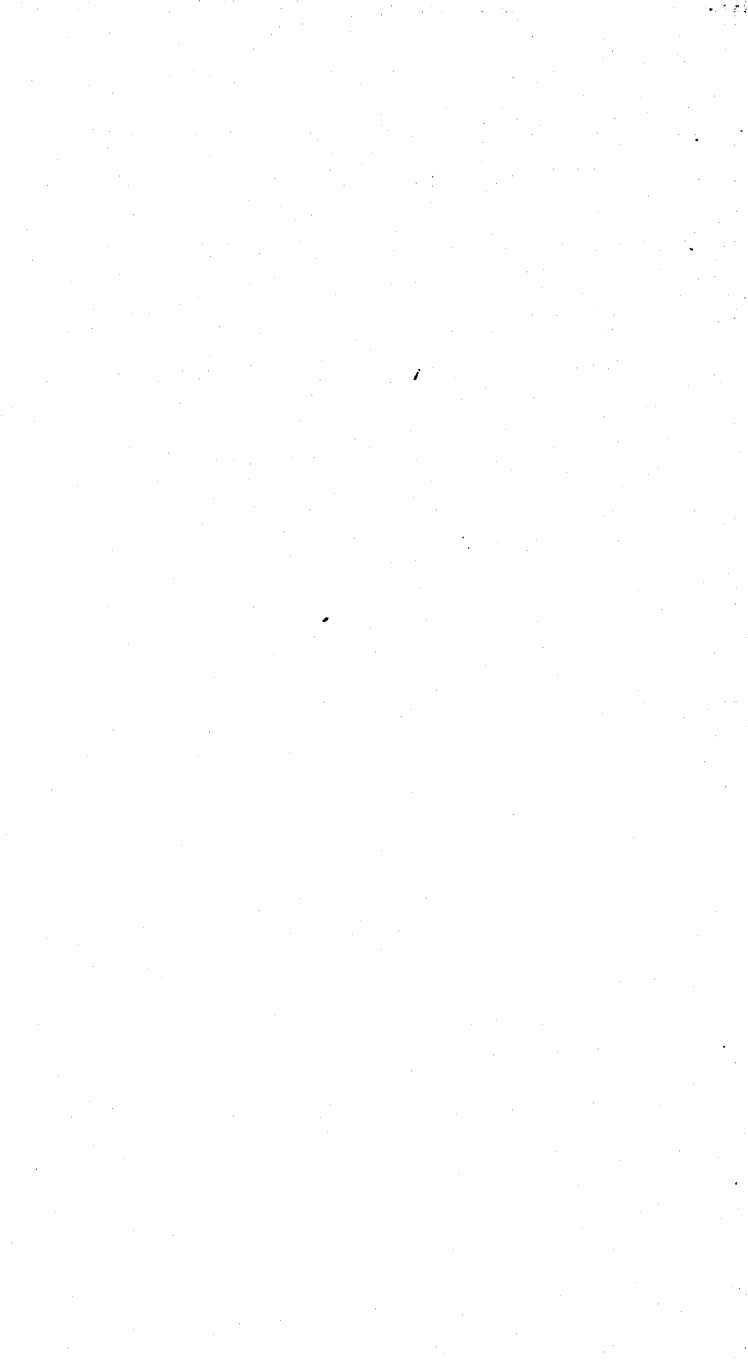
1. The sessions for the county of Halifax are authorised upon the recommendation of the grand jury, to appoint constables to attend upon the sessions and the supreme court, within the county, in the same manner as other town officers are appointed.

Constables—  
how appointed.

And be it enacted,

2. The supreme court, at its next easter term, upon a like recommendation, are authorised to appoint constables to attend the court, during such term and the sittings thereafter.

To attend  
supreme court  
at Halifax dur-  
ing easter term,  
1853.



## CHAPTER 10.

## An Act respecting Special Constables.

[Passed 31st day of March, A. D. 1853.]

## SECTION.

1. Constables—when to be appointed, and how.
2. By whom directed and controlled.
3. By whom to be sworn.
4. Duration of appointment.

## SECTION.

5. Of disorder or disturbance, or apprehension of, at public meetings.
6. Constables—refusing to serve.
7. Protection of.

Be it enacted by the governor, council, and assembly as follows :

1. In case of riot, tumult, or disturbance, or illegal acts of any kind, accompanied with force or violence, or of a just apprehension thereof, if in the city of Halifax, the mayor and any three of the aldermen ; and if elsewhere in the province, any three of her majesty's justices of the peace, may, by writing under their hands, appoint any number of special constables to assist in preserving peace and order.

Constables—  
when to be ap-  
pointed, and  
how.

2. Such special constables, shall, within the city, be under the discretion of the mayor or presiding alderman ; and if elsewhere, under the direction of the senior magistrate who has signed their appointment.

By whom direc-  
ted and con-  
trolled.

3. In the city, the mayor or any alderman, and elsewhere, any justice of the peace, may swear in such special constables to the faithful discharge of their duty.

By whom to be  
sworn.

4. The appointment of such special constables shall continue in force for the period of fourteen days from the date of such appointment, unless sooner revoked by the mayor, aldermen, or justices by whom they were appointed.

Duration of ap-  
pointment.

5. In case of disorder or disturbance which may occur at any public meeting or assemblage of persons, the mayor or any alderman, if in the city, or any justice of the peace if elsewhere, upon the request of the chairman of such meeting, or of three or more freeholders, may verbally appoint and swear in special constables who shall aid in restoring and preserving order and peace at such meeting or assemblage.

Disorder or dis-  
turbance, or ap-  
prehension of,  
at public meet-  
ings.

6. Any person who may be appointed a special constable under this act, and shall neglect or refuse to be sworn into office, shall be liable to a penalty of two pounds.

Constables—re-  
fusing to serve.

7. Any person who shall, by force, resist any constable or special constable in the execution of his duty, shall be subject to a penalty of not less than ten shillings and not more than five pounds, to be recovered, if in the city, on conviction in the police court, and if elsewhere, before any two justices of the peace, and on non-payment, the offender shall be committed to the jail of the county, for a period not exceeding thirty days.

Protection of.





## CHAPTER 11.

An Act to amend Chapter 64 of the Revised Statutes, entitled,  
"Of Commissioners of Streets."

[Passed the 31st day of March, A. D. 1853.]

## SECTION.

1. Sessions may set off districts. Appointment of commissioners; vacancies—how filled.
2. Bridges over rivers, &c.—dividing townships, &c.

## SECTION.

3. Provisions of chapter 64 of revised statutes, to apply to commissioners.
4. Present commissioners—when to retire.
5. Certain sections of chapter 64 repealed.
6. Not to apply to Halifax.

Be it enacted by the governor, council and assembly, as follows :

1. The court of general sessions are hereby empowered to set off, by limits, districts within their counties, and three commissioners of streets shall be appointed for each district, in manner following: the grand jury shall recommend six persons, residents in such district, of whom the sessions shall select three, one of whom shall annually retire in the order in which his name stands on the recommendation list handed in by the grand jury, and upon such retirement, two other residents shall be recommended in like manner, one of whom shall be selected by the sessions to supply the vacancy created by such retirement, and in case of the death, continued absence or refusal to serve of any of such three commissioners, a special sessions may fill up such vacancy, subject to the confirmation of the grand jury and general sessions, at their next meeting; and any person appointed under this act, who, after notice of such appointment, shall refuse or neglect to be sworn into office, shall forfeit and pay a fine of two pounds.

2. The sessions, in setting off districts, may include within their limits any bridge now or hereafter to be built over any brook, stream or river, dividing any districts or townships, and may place such bridge, or any part thereof, under the charge of the commissioners having supervision within such districts.

3. Upon being sworn to the faithful discharge of their duty, all the provisions of chapter sixty-four of the revised statutes, except so much thereof as is hereby repealed, shall apply to the commissioners to be appointed under this act.

4. Commissioners now appointed, shall retire in the order they would have done had this act not passed, and the vacancies be supplied under this act.

5. Sections one, two, three, and four, of chapter sixty-four of the revised statutes are hereby repealed.

6. This act shall not apply to the city of Halifax.

Sessions may set off districts.

Appointment of commissioners.

Vacancies—how filled.

Bridges over rivers, &amp;c., dividing townships, &amp;c.

Provisions of chapter 64 of revised statutes, to apply to commissioners.

Present commissioners—when to retire, &amp;c.

Certain sections of chapter 64 repealed. Not to apply to Halifax.



## CHAPTER 12.

An Act to amend Chapter 130 of the Revised Statutes,  
"Of the Probate Court."

(Passed the 4th day of April, A. D. 1835.)

## SECTION.

1. Judge may order division of real estate among next of kin.
2. Where division of portion cannot be made without prejudice.
3. Guardians to be appointed for minors.
4. Assignment of dower, &c., to widow.
5. Divisions of real estate—how to be made.
6. Three freeholders must concur in division.
7. Notice to be given before division approved by judge.
8. Confirmation of judge and costs.
9. Judge may associate another in administration with the next of kin.
10. Executor or administrator may be cited to account.

## SECTION.

11. Executor or administrator may cite his co-executor or co-administrator to account.
12. In settlement of accounts, court of probate to have same power as chancery.
13. Distribution of surplus assets.
14. Judge may order money to be paid by executor or administrator into a bank.
15. Administrator may be required to enter into new bond.
16. Bond to be in form now used.
17. Administrator may be required to convey lands where intestate has contracted for the sale.
18. Judge may authorize persons to administer oath in certain cases.

Be it enacted by the governor, council, and assembly, as follows :

1. The judge of probate may order the real estate of the testator or intestate, wherever situate within the province, to be divided among the next of kin, and whenever the share or interest of any such person being next of kin, shall have been transferred, the purchaser shall have the same rights and privileges, and be subject to the same liabilities as the person whose share he represents.

Judge may order division of real estate among next of kin.

2. In cases where the estate is divisible among the children of a testator or intestate, and such division, or the division of any particular portion thereof, cannot be made without prejudice to the whole estate, he may order the whole, or after the division of the residue, the whole of such particular portion to the eldest son, and on his refusal, to the other sons successively, and on their refusal to the eldest and other daughters in like succession; such son or daughter, paying to the other children their shares of the value of such estate, or giving satisfactory security for the payment thereof, with six per cent interest thereon.

Where division of portion cannot be made without prejudice.

3. Such order for division shall be made upon the application of a party interested, and guardians shall be appointed for such of the parties as shall be under age.

Guardians to be appointed for minors.

4. Where there shall be a claim for dower, or the widow shall claim any individual share, or right, devised by will; the judge of probate shall have power to order the same to be assigned and set off.

Assignment of dower, &c., to widow.

5. All divisions and valuations of real estate made under order

Divisions of real estate—how to be made.

of the judge of probate, shall be made by five disinterested freeholders, to be appointed by the judge for that purpose, who shall before acting, be sworn by the judge or registrar, or by a justice of the peace, to the faithful discharge of their duty.

Three freeholders must concur in division.

6. No such division or valuation shall be valid, unless three at least of the persons so appointed and sworn shall concur, and the judge shall approve thereof.

Notice to be given before division approved by judge.

7. Before such approval shall be given, the parties interested, or in case one or more of them are minors, the guardians shall have eight days notice of the time and place appointed to consider the same; and where any one or more of the parties interested shall be absent, or cannot be personally served, publication of such notice in the Royal Gazette, at least four weeks before the day named, shall be considered sufficient service of notice.

Confirmation of judge and costs.

8. On the day named in such notice, the judge shall confirm or reject the division, or make such amendments thereof, as he may deem right, and shall tax and award the costs of such division and valuation, and apportion the same among the parties interested in the estate as he shall deem just; and such taxation and order, shall have the same effect, and be enforced in the same manner as the taxation and order mentioned in the thirty-ninth section of the chapter hereby amended.

Judge may associate another in administration with the next of kin.

9. In case such of the next of kin as shall be considered by the judge best qualified to administer in any estate shall desire it, the judge may associate with him in the administration, such person as he may think fit and proper for that purpose.

Executor or administrator may be cited to account.

10. The judge of probate on the application, after eighteen months from the date of the letters of administration or probate, of any party interested as a creditor, legatee, or next of kin, or as surety on the administration bond may cite the executor or administrator to render an account, and to proceed to have the same settled according to law, and on the settlement of any administrator's or executor's account, the judge of probate may proceed to adjust the claims of creditors, subject to appeal, as in other cases. The costs of the proceedings on citation to render an account shall not be allowed against the executor or administrator, unless the party at whose instance such proceedings shall have been had, shall first have given ten days notice to such executor or administrator, requiring him to render such account.

Executor or administrator may cite his co-executor or co-administrator to account.

11. After eighteen months from the date of letters of administration, any executor or administrator may cite a co-administrator or co-executor to account before the judge, and thereupon the judge may compel the party cited to proceed to the settlement of his account as between him and the party at whose instance he was cited, or may order all the administrators or executors to proceed to the settlement of their accounts as prescribed in the twenty-ninth section of the chapter hereby amended.

In settlement of accounts, court of probate to

12. In the settlement of the accounts of executors or administrators, or in any matter pertaining thereto, the court of probate

shall have the same power which is enjoyed by the court of chancery.

have same power as chancery.

13. The judge of probate may order the surplus assets remaining after the settlement of an executor's or administrator's account to be distributed among the parties entitled thereto.

Distribution of surplus assets.

14. The judge of probate, may, on summary application, if he shall think it for the interest of the estate so to do, order any money in the hands of the executor or administrator to be paid into any chartered bank in this province to the credit of the estate, and when money shall be so paid, the bank shall not permit the same to be withdrawn without the order of the court of probate.

Judge may order money to be paid by executor or administrator into a bank.

15. The judge of probate, may, if he shall think fit, on summary application and due proof that any bondsman on any administration bond has died, or become insolvent, order the administrator to enter into a new bond with two sureties, to be approved by the judge in such sum as he shall order, and if the administrator shall not obey such order may cancel his authority, and thereupon proceed to appoint a new administrator in the same manner as if such administrator were deceased.

Administrator may be required to enter into new bond.

16. The bond to be taken on such new administration, shall be as near as may be in the form of the bond now used, making the necessary alterations.

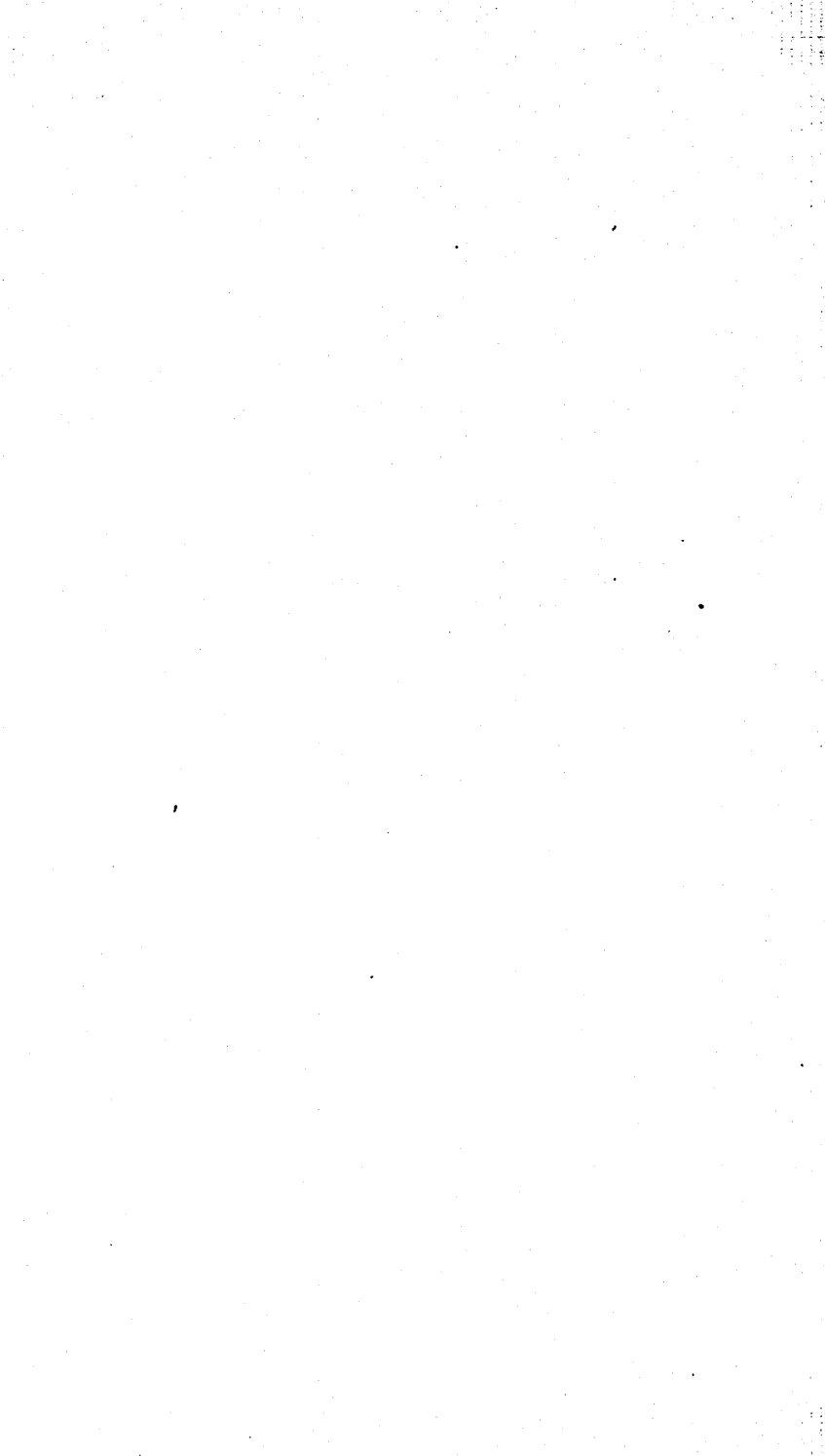
Bond to be in form now used.

17. If the deceased at the time of his death, were liable to perform any contract for the sale and conveyance of any real or personal estate, the judge shall have power to declare the administrator trustee thereof, so far as may be necessary for performing such contract, and thereupon such administrator shall have power to execute the necessary conveyances for the performance thereof, and shall hold the purchase money, subject to the same rules of descent and distribution as if the conveyance had been made and the consideration received in the life time of the deceased.

Administrator may be required to convey lands when intestate has contracted for the sale.

18. Where any oath prescribed by this act, or the chapter hereby amended, is required to be taken before a judge or registrar, and the party to make such oath lives out of the province, or more than thirty miles distant, or by reason of age or sickness, is unable to appear before such judge or registrar, the oath of such party taken in writing, before any person duly authorized by such judge, shall have the same effect as if taken before the judge or registrar.

Judge may authorize persons to administer oath in certain cases.



## CHAPTER 13. *Amended by Act of 1855, 1856*

### An Act concerning Prothonotaries and Clerks of the Crown.

(Passed the 31st day of March, A. D., 1853.)

## SECTION.

1. To go into operation on receiving the queen's assent.
2. Officer of prothonotary and clerk of the crown for the province abolished. J. W. Nutting to continue to hold those offices for Halifax.
3. A prothonotary to be appointed for each county.

## SECTION.

4. Prothonotaries to make a return of fees, and to pay over one-third thereof to the receiver general, to be paid over to J. W. Nutting. Proviso.
5. Prothonotaries and clerks of the crown to give bonds.

Be it enacted by the governor, council, and assembly as follows :

1. This act shall come into operation so soon as her majesty's assent shall be signified thereto by publication in the royal gazette.

2. The office of prothonotary of the supreme court and also the office of clerk of the crown for the whole province, are hereby respectively abolished; but nothing in this act contained shall affect the rights of James W. Nutting, esquire, to continue to hold the office of prothonotary and clerk of the crown for the county of Halifax, in the same manner as he now holds the office of prothonotary and clerk of the crown for the whole province under his patent.

3. The governor in council shall appoint and commission one person to be prothonotary of the supreme court and clerk of the crown in every other county, except Halifax, and in Halifax when a vacancy shall hereafter occur, and every such prothonotary and clerk of the crown, shall, within and for the county for which he may be appointed, have, and exercise, and be liable and subject to all the same duties, rules, enactments, powers, and regulations as are now respectively had and exercised by the present prothonotary of the supreme court and clerk of the crown, and his deputies, or to which he or they is or are, now subject and liable.

4. The prothonotaries in the different counties shall, on or before the first day of February, in every year, so long as James W. Nutting, esquire, shall hold the office of prothonotary and clerk of the crown for the county of Halifax, make a return, under oath, into the receiver general's office of the fees received by them; and the prothonotaries of the several counties, Halifax excepted, shall, at the same time pay over one third of such fees to the receiver general, who shall pay over the same to the said James W. Nutting—provided no greater sum shall be paid out of the sums so paid in any one year, than will, together with the fees of the prothonotary, and the emoluments of the clerk of the crown in Halifax, amount to five hundred pounds, and if in any one year such fees and emoluments shall not amount to five hundred pounds, he shall

To go into operation on receiving the queen's assent.

Office of prothonotary and clerk of the crown for the province, abolished.

J. W. Nutting to continue to hold these offices for Halifax.

A prothonotary to be appointed for each county.

Prothonotaries to make a return of fees, and to pay over one-third thereof to the receiver general, to be paid over to J. W. Nutting.

Proviso.



receive the deficiency from the receiver general, if there should be at any time a sufficient balance in the treasury of funds paid in under this act.

Prothonotaries  
and clerks of  
the crown to  
give bonds.

5. The prothonotaries and clerks of the crown to be appointed as aforesaid, shall give bonds in such sums and with such securities as may be directed by the governor in council, conditioned for the performance of the duties of their office, and for the payment of the monies hereinbefore directed to be paid to the receiver general.

## CHAPTER 14.

## An Act relating to the Deep Sea Fishery.

[Passed the 31st day of March, A. D. 1853.]

## SECTION

1. Agreement to be entered into between master and crew. Terms of agreement.

## SECTION

2. Penalties for desertion. Form of agreement.

Be it enacted by the governor, council, and assembly, as follows: Agreement to be entered into, between master and crew.

1. The master of any vessel, registered in and belonging to this province, and bound from any port therein, to be employed in the deep sea fishery, shall, before proceeding on such fishing voyage, enter into an agreement in writing with every person on board, apprentices excepted, which agreement shall express whether the same is to continue for one voyage or for the fishing season; and shall also express that the fish, or the proceeds of such fishing voyage or voyages which may appertain to the crew of such vessel, shall be divided among them in proportion to the quantity or number of fish which they may respectively have caught; which agreement, in addition to the signatures of the master and crew shall be countersigned by the owner of such fishing vessel, or his agent, and shall be as nearly as possible in the form given in the annexed schedule. Terms of agreement.

2. Any person having engaged for a voyage or for the fishing season, as before provided, who shall, while the agreement therefor continues in force, desert or absent himself from the vessel in which he shipped, without leave of the master, shall be liable to the same penalties and forfeitures imposed on the like offences under chapter 76 of the revised statutes, and every master of a fishing vessel taking any person on a deep sea voyage without entering into the before required agreement, shall be liable to the penalty imposed on that offence by the same chapter. Penalties for desertion.

## SCHEDULE IN THIS CHAPTER REFERRED TO.

An agreement made in pursuance of an act of the general assembly of Nova Scotia, passed in the sixteenth year of the reign of her present majesty, entitled "an act relating to the deep sea fishery," between master of the ship \_\_\_\_\_, of the port of \_\_\_\_\_, of the burthen of \_\_\_\_\_ tons, and the several persons whose names are subscribed hereto. Form of agreement.

It is agreed by, and on the part of the said persons, and they severally hereby engage to serve on board said ship, in the capacities set opposite their respective names on a fishing voyage from the port \_\_\_\_\_, to \_\_\_\_\_: [here the intended voyage is to be described, and the duration of the same, and the nature of

*the same as nearly as can be done, and if the same is to continue for the fishing season,]* and back to the port of \_\_\_\_\_; and the said crew agree to conduct themselves in an orderly, faithful, honest, careful and sober manner, and to be at all times diligent in their respective duties and stations, and to be obedient to the lawful commands of the master in every thing relating to the said ship, and the materials, stores, and cargo thereof; in consideration of which services, to be duly, honestly, faithfully and carefully performed, the said master doth hereby promise and agree with the said crew; [*here insert the particular agreement with reference to the division of the fish among the sharesmen at end of voyage.*] In witness whereof, the said parties have hereto subscribed their names on the days against their respective signatures mentioned.

Place and time of Entry.			Men's name.	Age	Place of Birth.	Quality.	Amount of Share.	Sureties.	Witness to Execution.
Day.	Month.	Year.							

## CHAPTER 15.

## An Act to regulate the Mines of this Province.

(Passed the 4th day of April, A. D., 1853.)

## SECTION

1. Lease of mines—how to be applied for. Advertisement of the application.
2. Lease—when to be granted—term of.
3. Where mine worked and abandoned after 12 months.

## SECTION

4. Where only colorably worked.
5. Royalties. Term of leases not to extend beyond 1886.

Be it enacted by the governor, council, and assembly, as follows :

1. Any person proposing to work any mines or minerals in any ungranted lands in this province, or in any granted lands wherein such mines and minerals were reserved at the time of the grant, may apply for a lease of such mines and minerals to the governor, by petition, setting forth, particularly, the quality and description of the mines or minerals applied for, and also a description of the lands wherein the same are situate ; on receipt of such application the governor shall direct an advertisement to be inserted in the royal gazette for the space of three months, at least, notifying all persons interested, or claiming to be interested in such mines or minerals, of the application so made.

2. If such mines or minerals shall not, within twelve months from the publication of such notice, be opened and worked, the governor in council may order a lease thereof to such person or persons for such term and on such conditions as he may think fit.

3. When the working of any mine, now opened, or hereafter to be opened in this province, shall have been abandoned for a period of twelve months, the governor in council shall have the same power to lease the same as in cases where a mine shall not have been worked after twelve months notice, as herein above provided.

4. Where any complaint shall be made to the governor in council, that any mines or minerals claimed under a lease from the crown, or under a lease granted pursuant to this act, are not worked bona fide, but only colorably, or to prevent a forfeiture under the terms of such lease, and such complaint shall appear to the governor in council to be well founded, the attorney general shall be directed to file in the supreme court, in the name of the queen, an information setting forth the description of the mines and minerals in question, and the substance of the complaints so made ; a copy of such information shall be served upon the principal officer in charge of the mines, or in his absence, be posted in some conspicuous place on the premises ; which service or posting shall be considered sufficient notice to the parties interested, to appear and defend such information, and shall be made the same number of days, at least, as are required in ordinary proceedings

Lease of mines—how to be applied for.

Advertisement of the application.

Lease—when to be granted—term of.

Where mine worked and abandoned after 12 months.

Where only colorably worked.

in the supreme court. The party interested may appear to such information and traverse the allegation that such mines or minerals were not worked bona fide, but only colorably; or to prevent forfeiture, as aforesaid; and thereupon the issue shall be tried as other issues in the supreme court are tried, subject to the same rules and incidents, so far as the same may be applicable. On judgment for the plaintiff, by default, or after verdict, or confession, the governor in council shall have the same power to lease the mines and minerals contained in such lands, as in cases under the second section of this act.

Royalties.]  
term of leases  
not to extend  
beyond 1886.

5. The royalties reserved under any lease granted in pursuance of this act, shall not be less than those now paid by any party holding a lease under the crown of any mines or minerals in this province; and no such lease shall be made to extend beyond the year one thousand eight hundred and eighty-six.

## CHAPTER 16.

### An Act to authorise Clerks of the Peace to appoint Deputies.

[Passed the 31st day of March, A. D. 1853.]

SECTION 1.—Deputies to have same power, &c., as principals, who are responsible for their deputies.

Be it enacted by the governor, council and assembly, as follows: Deputies to have same power, &c., as principals, who are responsible for their deputies.

I. The clerks of the peace in the several counties or districts, with the consent of the custos, may appoint deputies to act for them in case of sickness or temporary absence; for whose conduct the principal shall be responsible; and all deputies so appointed, shall have the same powers vested in them for the time being, as by law are vested in the principal, and their acts shall be equally valid.



CHAPTER 17.

An Act to amend Chapter Ninety-five of the Revised Statutes, "Of River Fisheries."

[Passed the fourth day of April, A. D. 1853 ]

SECTION.

- 1. Penalty for taking salmon between July and March.
- 2. Penalties for taking them, between Friday and Monday, and for selling or buying them between July and March.
- 3. Appointment of wardens—duties, &c.
- 4. Penalties—how recovered and applied.
- 5. Wardens—competent witnesses.
- 6. Salary of wardens.
- 7. Fishway to be made in all dams.
- 8. Wardens to report obstructions to passage of fish.

SECTION.

- 9. Special sessions to investigate the complaint.
- 10. Special sessions may issue warrant to remove obstructions complained of.
- 11. Penalties—how enforced.
- 12. Appeal.
- 13. Sessions to define bounds of river fisheries.
- 14. Certain sections of chapter 95 of the revised statutes repealed.

BE it enacted, by the governor, council, and assembly, as follows :

1. No salmon shall be taken in any manner between the thirtieth day of July and the first day of March in each year, in any of the rivers of this province, except in salt water, below low water sea mark, under a penalty of twenty pounds.

Penalty for taking salmon between July and March.

2. Whoever shall take any salmon after sunset on Friday, and before sunrise on Monday, in any of the rivers of this province, shall forfeit and pay twenty shillings; and whoever shall purchase, or offer for sale, any salmon taken in such rivers, between the thirtieth day of July and the first day of March, shall forfeit and pay twenty shillings.

Penalties for taking them between Friday and Monday, and for selling or buying them between July and March.

3. The governor, in council, may appoint wardens of the river fisheries in the several counties of this province, whose duty it shall be to appoint deputies, and to watch over and protect such fisheries, and to enforce all the provisions of the law, and the rules and regulations of the sessions, with relation to such fisheries: which wardens shall be subject to the directions of the governor in council, and shall be liable to a penalty not exceeding ten pounds for misconduct or neglect of duty.

Appointment of wardens—duties, &c.

4. All fines and penalties imposed by this act, shall and may be recovered as in cases of debt, before any justice of the peace, with costs, and when recovered shall be paid into the county treasury, and appropriated, one half to the warden who instituted the proceedings for the recovery of such fines and penalties, and the other half to the use of the county.

Penalties—how recovered and applied.

5. Nothing herein contained shall prevent the wardens or their deputies from being competent witnesses on any proceedings for the recovery of any such fines or penalties, by reason of their being entitled to any portion thereof.

Wardens—competent witnesses.

6. The wardens, in addition to their proportion of such fines and penalties, shall respectively demand and receive from the provincial treasury the sum of twenty-five pounds annually.

Salary of wardens.



Fishway to be made in all dams.

7. In every dam now or hereafter to be constructed on any streams or rivers resorted to by fish from the sea, for the purpose of spawning, a proper and suitable fishway, of such dimensions as the warden shall direct, shall be made and kept open.

Wardens to report obstructions to passage of fish.

8. The wardens and their deputies shall examine all rivers, streams, lakes, brooks, and mill ponds, so resorted to by fish from the sea, for the purpose of spawning; and in case any mill dam erection, nuisance or obstruction, or any slabs, boards, stones, or other things injurious to the fisheries, shall be constructed, made or placed, or suffered to be or remain in, upon, over or across the same, by which fish cannot freely pass and repass, it shall be the duty of such wardens or deputies to report the fact in writing, under oath, to any justice of the peace in the county.

Special sessions to investigate the complaint.

9. The justices of the peace to whom such complaint shall be made, shall forthwith notify the clerk of the peace, and a special sessions of three or more justices shall thereupon be convened, and such special sessions shall examine into such complaint, and if the same be well grounded they shall, by an order in writing, direct the person offending to remove the obstruction complained of within a limited time; and such special sessions may also impose upon the party so offending a fine of not less than two pounds, or more than ten pounds, for each offence, together with costs to be taxed by such special sessions.

Special session may issue warrant to remove obstruction complained of.

10. Such special sessions shall and may, by warrant under their hands and seals, direct either the warden or the sheriff of the county, or both, within a certain limited period, to remove the nuisance or obstruction complained of; and every person called upon by such warden or sheriff is hereby required to aid and assist such officers in carrying out the directions of such warrant, under a penalty of not less than one pound nor more than five pounds.

Penalties—how enforced.

11. If any person convicted under this Act shall neglect or refuse to pay the fines and penalties imposed, and costs, the special sessions may issue their warrant for enforcing payment thereof by sale of the personal property of such person, and in default of payment such person shall be committed to the jail of the county for the space of three months, or until he shall have paid such fine and costs.

Appeal.

12. Any person who shall feel himself aggrieved by any judgment or conviction under this act, may appeal, on giving security to abide the event of such appeal, to the next general sessions, who shall hear and determine such appeal, and make such final order as they shall see fit.

Sessions to define bounds of river fisheries.

13. The sessions are authorized to define the bounds within which the fisheries shall be conducted in the rivers in this province; and how far such rivers shall be considered to extend towards the sea.

Certain sections of chapter 95 of revised statutes repealed.

14. Sections 2, 3, 4, 5 and 9, of chapter ninety-five of the revised statutes "Of river fisheries," are hereby repealed.

## CHAPTER 18.

### An Act to authorise a Provincial Loan.

(Passed the 31st day of March, A. D. 1853.)

#### SECTION.

1. Cash account to be opened with banks.  
Amount of loan limited to £10,000.
2. How drawn and received.
3. Re-payment guaranteed.

#### SECTION.

4. Accounts to be submitted to committee of public accounts.
5. Balance to be paid off, 31st December 1853.

Be it enacted by the governor, council, and assembly, as follows :

1. The governor may cause a cash account to be opened at one or more of the banks in the city of Halifax, and may borrow and receive from such banks, such sum of money as may be necessary for the use of the province, in such amounts as may from time to time be required, and under such conditions, and upon such terms, agreements and stipulations for the payment and repayment of such monies, and for the working of such accounts, as by the governor in council may be established, prescribed and directed, with the consent of the directors of the bank, or otherwise to borrow and receive from any other persons, corporations, or companies, a sum not exceeding ten thousand pounds at the lowest interest at which such loan can be effected.

Cash account to be opened with banks.

Amount of loan limited to £10,000.

2. The money may be drawn for and received from time to time in such sums, and under such restrictions and regulations as may be prescribed by the governor in council with the consent of the lenders thereof.

How drawn and received.

3. For the repayment of all monies borrowed under this act, and for the final payment and discharge of the balance which shall be remaining due and unpaid on the final closing of the accounts with such lender with interest, the public funds, monies and credits of this province, are hereby pledged and rendered liable.

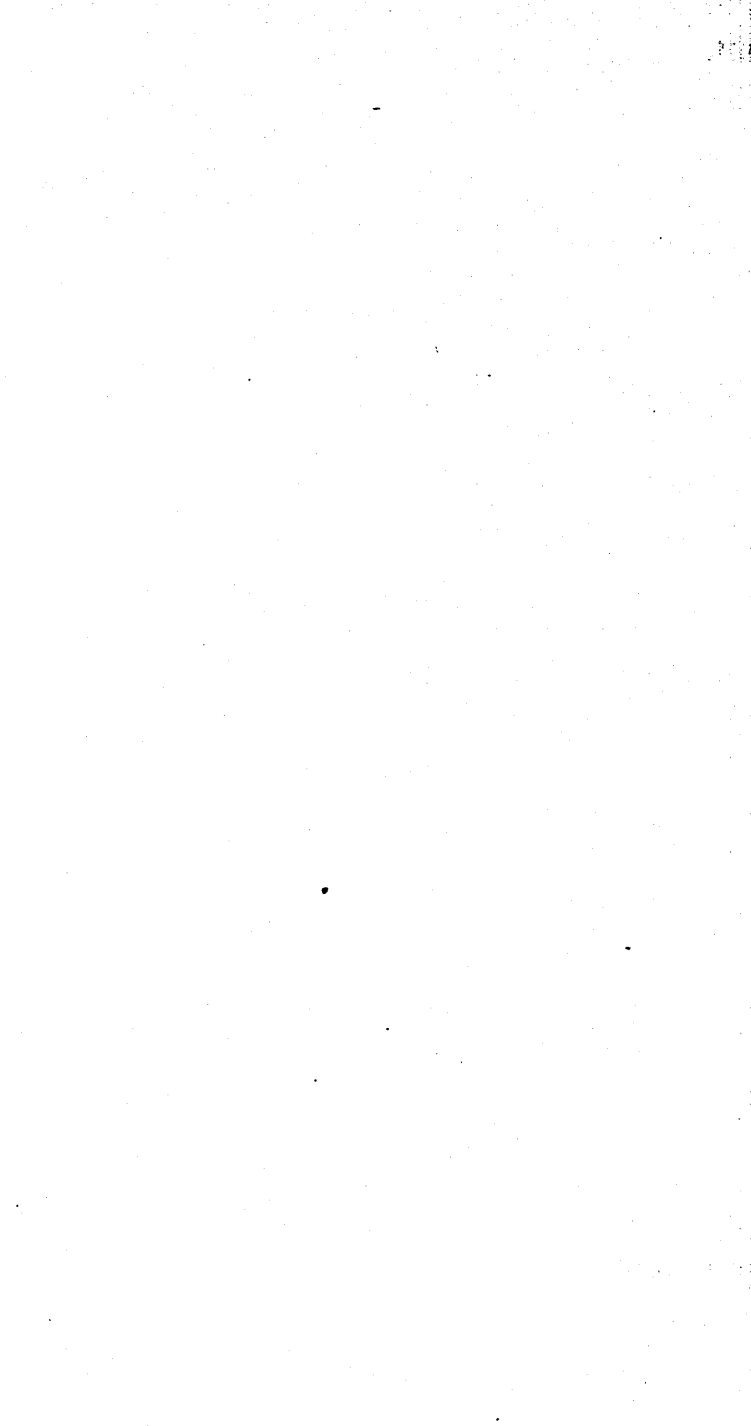
Re-payment guaranteed.

4. An account of all sums borrowed or repaid under this act, with the dates of the loans and repayments respectively, shall be laid before the joint committee of the legislature, appointed to examine the public accounts, together with the drafts and vouchers relating to the same at the next session.

Accounts to be submitted to committee of public accounts.

5. The balance due for such loans, on the thirty-first day of December, in the year one thousand eight hundred and fifty-three, shall be paid off and discharged, on or before the thirty-first day of March next thereafter.

Balance to be paid off, 31st Decr., 1853.



## CHAPTER 19.

## An Act for enforcing performance of Engagements in aid of Public Undertakings.

(Passed the 31st day of March, A. D. 1853.)

## SECTION.

1. Persons subscribing for money, &c., in aid of public undertakings, to be held legally liable.

## SECTION.

2. Subscriptions—how recoverable.
3. Monies—application of. Operation—not retrospective.

Be it enacted by the governor, council, and assembly, as follows :

1. Whenever any subscription shall be opened and made in aid of the erection of any road, bridge, place of worship, school house, or for any other undertaking of public utility, or which may be designated in the subscription list as, or appears to be, a public undertaking; and such undertaking shall be commenced, every person who may have engaged by written subscription, to contribute money, labor or other aid towards the undertaking, shall be held legally liable, and bound to perform his engagements, notwithstanding any apparent want of consideration in the agreement for the same.

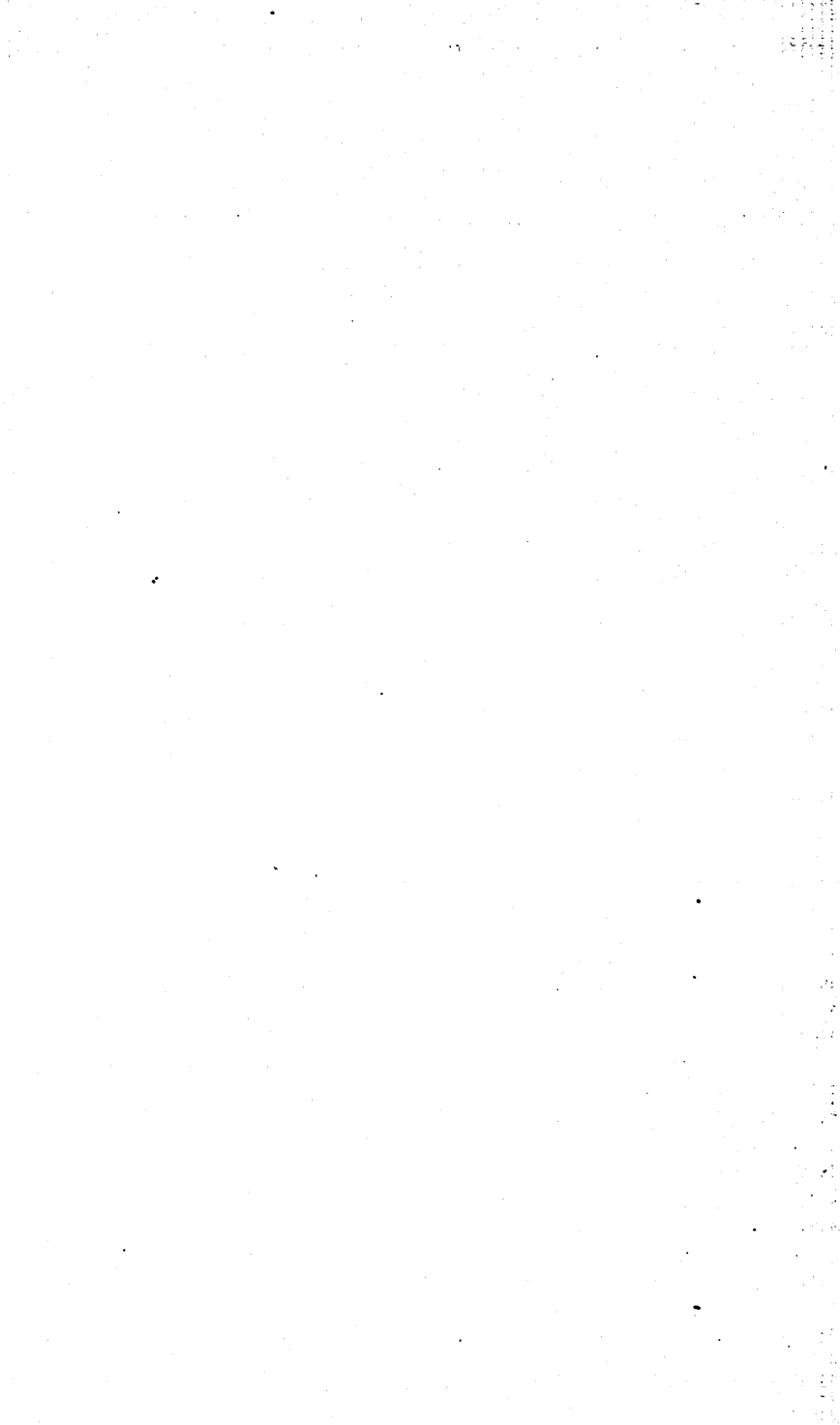
Persons subscribing for money, &c. in aid of public undertakings to be held legally liable.

2. In case of public grants made in aid of such undertaking, the commissioner or other person appointed to expend such grant, or where no public grant shall be made, then the person to whom the performance or superintendance of such undertaking may have been entrusted, or the person who may himself have engaged in, and be then carrying on such undertaking, may require all persons who may have so subscribed to perform their engagements; and in case any subscriber shall, after a written notice of at least one month, refuse or neglect so to do, he may be sued by such commissioner or other person hereinbefore mentioned, or the person to whom such subscription may be payable, as if such subscription were a private debt of the like amount; but nothing in this act shall be construed to bind or make liable the estate of the executors or administrators of any subscriber, unless they shall be specially named in the instrument subscribed by him.

Subscriptions—how recoverable

3. All monies or other aid so subscribed and recovered, shall be applied and expended for the purpose for which the same shall have been so subscribed, and for no other purpose whatever; but nothing in this act shall apply to any subscription heretofore made or entered into.

Monies—application of. Operation—not retrospective.



## CHAPTER 20.

### An Act to amend the Act to provide for the erection of a Court House in Halifax.

(Passed the 31st day of March, A. D., 1853.)

**SECTION.**

1. Amount to be assessed on the county of Halifax—how levied and collected.

**SECTION.**

2. Commissioners to be appointed.
3. Assessment to extend over five years—funds to be anticipated by loan.

Whereas by the act passed in the fourteenth year of her majesty's reign, to provide for the erection of a court house in Halifax, the grand jury were required to assess, and the sessions to confirm, two thirds of the amount necessary for that purpose, and it was enacted that in case the grand jury and sessions should not make arrangements for carrying out the intention of the legislature with all convenient speed, then the service should be performed under the direction of the supreme court, and that court was authorised to amerce the county for two thirds of the sum necessary to erect and finish such building.

*Recitals.*

And whereas the grand jury and sessions have not complied with the provisions of that act.

And whereas the grand jury have made a presentment to the supreme court, that two thirds of a sum, not exceeding five thousand pounds, should be assessed on the county, for the erection of a court house on a certain site therein named.

Be it enacted by the governor, council, and assembly as follows :

1. Two thirds of a sum necessary for the erection of a court house, when the amount thereof shall have been ascertained by the supreme court, shall be assessed on the county of Halifax by the assessors of the city and county, on the same principle, and shall be levied and collected in the same way as county rates are levied and collected by the officers appointed to collect the same; and when collected, the same shall be paid into the treasury—provided the whole amount, including the one third to be paid out of the general funds of the province shall not exceed five thousand pounds; and in case any delay shall occur in the assessment or in the collection thereof by the officers hereby authorised to make the same, then the supreme court may appoint assessors and collectors to assess and collect the amount hereby directed to be raised.

*Amount to be assessed on the county of Halifax—how levied and collected.*

2. The governor in council may appoint three persons to be commissioners for superintending the erection of such court house.

*Commissioners to be appointed.*

3. The assessment hereby authorised shall be divided and extend over the term of four years, and the commissioners are authorised to anticipate the funds to be raised by such assessment, by borrowing money, to be applied towards erecting the court house,

*Assessment to extend over five years—funds to be anticipated by loan.*

to be repaid with interest out of the proceeds of the assessment authorised under this act—provided the amount to be so borrowed shall not exceed in the whole two thirds of five thousand pounds, at a rate of interest not to exceed six per cent.—such interest to be added to the amount of assessment authorised by this act.

---

HALIFAX, N. S.—JOHN S. THOMPSON, QUEEN'S PRINTER.

## CHAPTER 21.

## An Act to extend the provisions of the Patent Laws.

(Passed the 4th day of April, A. D. 1853.)

## SECTION.

1. Provisions of revised statutes, chapter 120 extends to inhabitants of Canada, New Brunswick, P. E. Island, and Newfoundland, for one year.

## SECTION.

2. Affidavit may be made in colony where applicant resides.

Be it enacted, by the governor, council, and assembly, as follows :  
 Any British subject who shall have been an inhabitant of Canada, New Brunswick, Prince Edward's Island, or Newfoundland, for the space of one year previous to his application, upon his having complied with the provisions of chapter one hundred and twenty of the revised statutes "of patents for useful inventions," shall obtain letters patent for any useful invention or improvement, notwithstanding his residing out of this province, to the same extent in every respect as if he had been an inhabitant thereof, and had resided therein for one year previous to such application; and after such letters patent are obtained, such person shall be entitled to all the rights and privileges by such act conferred.

2. The affidavit required by such chapter may be sworn by the person making such application before any judge of the province or colony in which such person shall reside.

Provisions of revised statutes chapter 120 extended to inhabitants of Canada, New Brunswick, P. E. Island, and Newfoundland, for one year.

Affidavit may be made in colony where applicant resides.





**CHAPTER 22.****An Act relative to certain Payments made from the Provincial Treasury.**

[Passed the 4th day of April, A. D. 1853.]

SECTION 1. Advance to members of the house of assembly in 1852, confirmed.

Be it enacted by the governor, council, and assembly, as follows:

1. The advance made by the receiver general from the provincial treasury during the past year, of the sum of two thousand seven hundred and fifty-six pounds and ten shillings, being the usual allowance for days attendance and travel of members of the house of assembly for the last session, is hereby sanctioned and made valid; and no action or prosecution shall be brought or instituted against the receiver general, or any other person, in respect of such advance having been so made.

Advance to members of the house of assembly, in 1852, confirmed.



**CHAPTER 23.**

An Act to revive and continue the Act for regulating Distilleries.

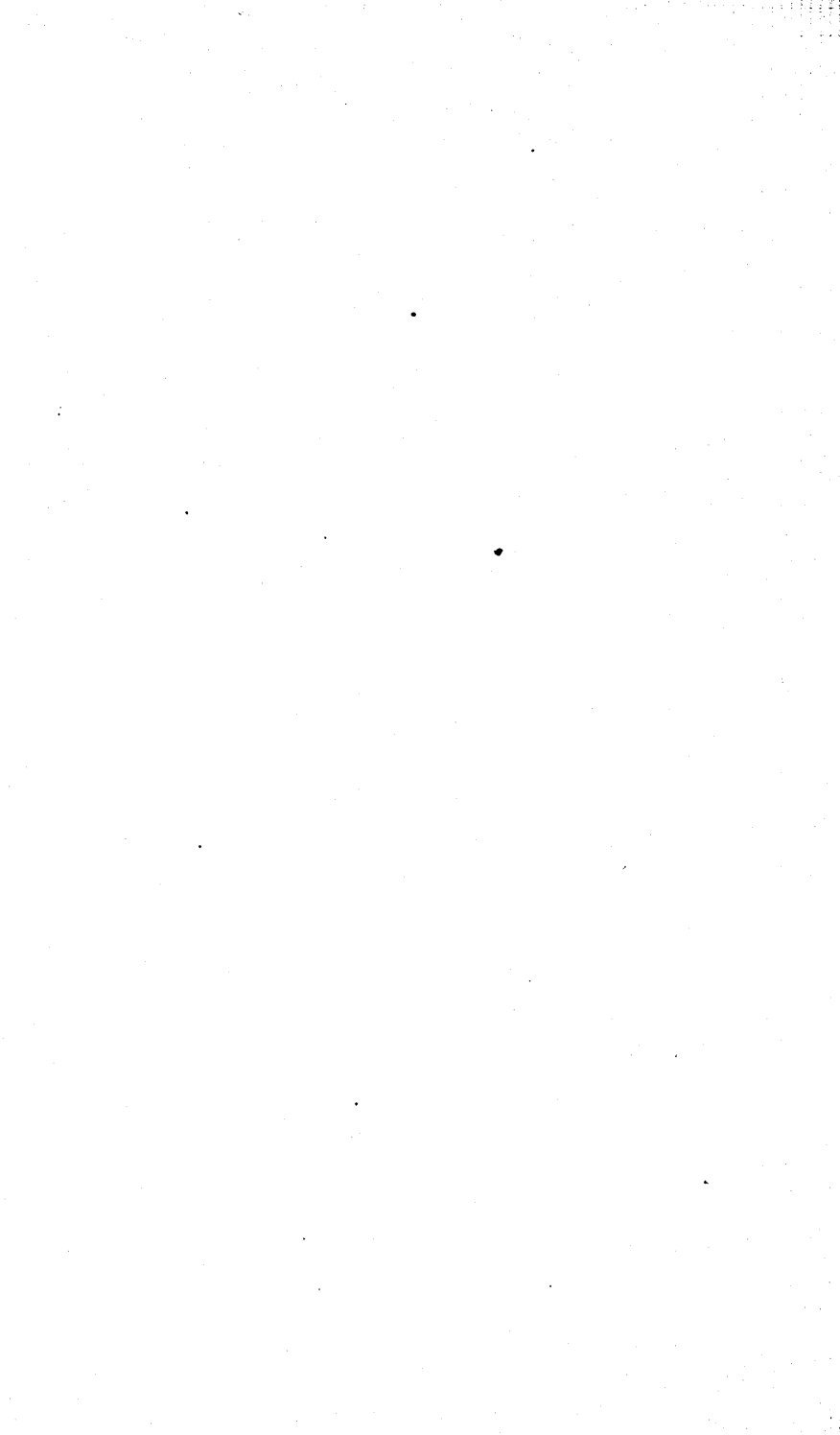
(Passed 4th day of April, A. D. 1853.)

SECTION 1. 15 Vic. Chapter 10, revived and continued till 1st April, 1854.

Be it enacted by the governor, council, and assembly, as follows :  
1. The act, fifteenth Victoria, chapter ten, entitled "an act for regulating distilleries" is revived and continued until the first day of April, in the year one thousand eight hundred and fifty-four.

---

HALIFAX, N. S.—JOHN S. THOMPSON, QUEEN'S PRINTER.



## CHAPTER 24.

### An Act to amend An Act for founding a Lunatic Asylum.

[Passed 4th day of April, A. D. 1853.]

## SECTION.

1. Sections 1, 7, & 8, of act for founding a lunatic asylum, repealed.

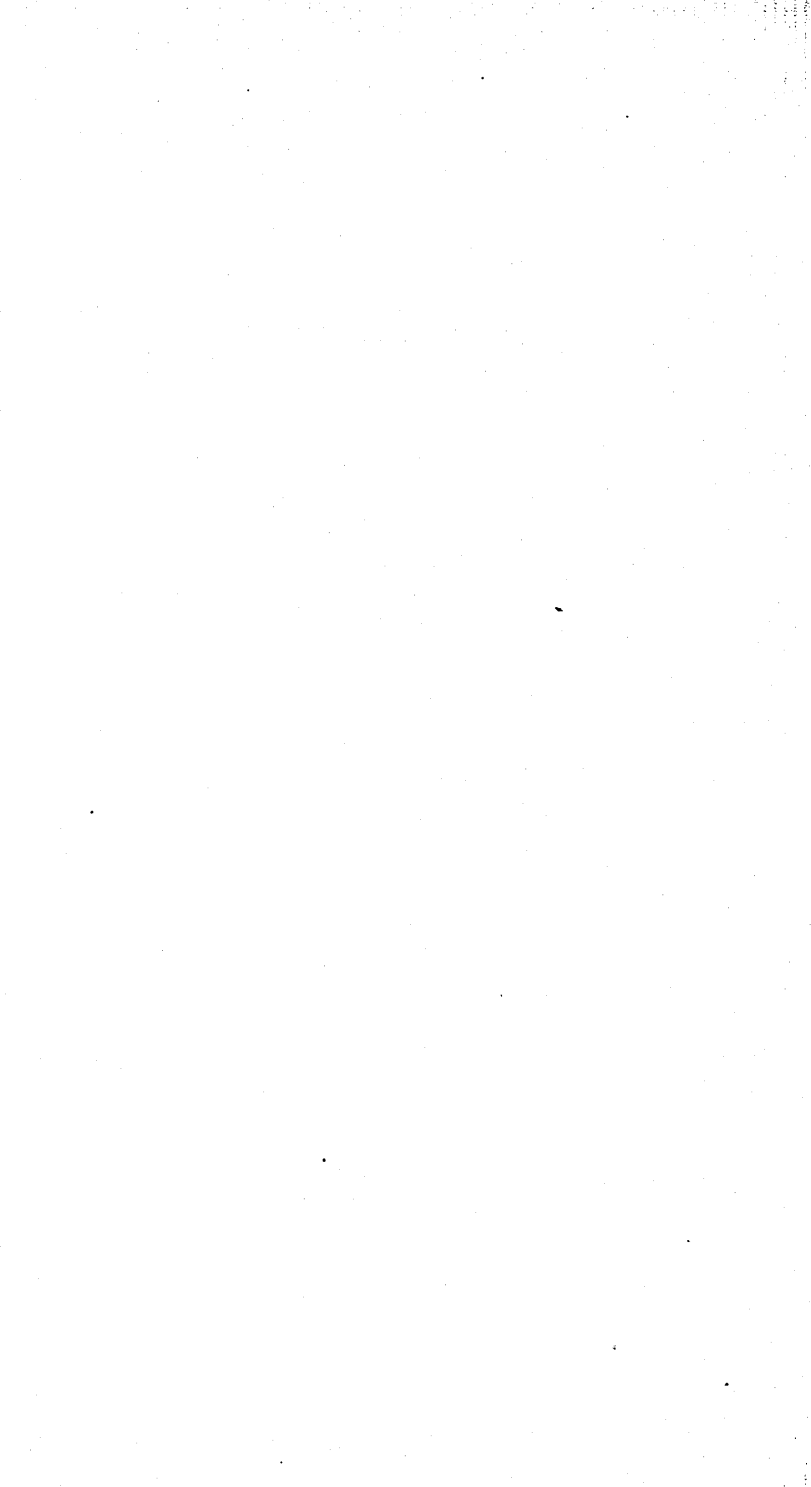
## SECTION.

2. Commissioners—how appointed—to be a body corporate.

Be it enacted by the governor, council, and assembly, as follows: Sections 1, 7, & 8, of act for

1. The first, seventh and eighth sections of the act of last session, entitled "an act for founding a lunatic asylum" are repealed. natic asylum, repealed.

2. The governor in council shall appoint three commissioners for the purposes of this act, and such commissioners shall be a body corporate by the name of "the commissioners of the lunatic asylum." Commissioners—how appointed—to be a body corporate.



## CHAPTER 25.

### An Act to revive and continue the License Law.

[Passed the 4th day of April, A. D. 1853.]

SECTION 1. Chapter 22 revised statutes revive and continued until 1st April, 1854.

Be it enacted by the governor, council, and assembly, as follows :

1. Chapter twenty-two of the revised statutes, "Of licenses for the sale of intoxicating liquors," is revived and continued until the first day of April, in the year one thousand eight hundred and fifty four.

Chapter 22 re-  
vised statutes  
revived and  
continued until  
1st April, 1854.

---

HALIFAX, N. S.—JOHN S. THOMPSON, QUEEN'S PRINTER.





## CHAPTER 26.

### An Act to amend the Laws for the prevention of Smuggling.

(Passed the 31st day of March, 1853.)

SECTION 1. 9th section chapter 19 revised statutes repealed. Proceeds of sale of smuggled goods—how applied.

Be it enacted by the governor, council, and assembly, as follows: 9th section chapter 19 revised statutes repealed.

1. The ninth section of chapter nineteen of the revised statutes, "Of the prevention of smuggling," is repealed, and the following section substituted in lieu thereof: pealed.

The collector, out of the nett proceeds of the sale, after paying the expense of the proceedings, shall pay one-half part to the seizer, and the remainder as the board shall direct; and the board may thereout grant a further sum to the seizer, or may recompense the informer, or any person assisting in the seizure. Proceeds—sale of smuggled goods—how applied.



**CHAPTER 27.****An Act to continue the Laws relating to Education.**

(Passed the 31st day of March, A. D. 1853.)

SECTION 1. Chapter 60 revised statutes, and 13 Vic. ch. 36, continued to 1st May, 1853.

Be it enacted by the governor, council, and assembly, as follows :

1. Chapter sixty of the revised statutes, "Of public instruction," and also the act thirteenth Victoria, chapter thirty-six, entitled, "an act relating to the Pictou academy," are hereby respectively continued until the first day of May, in the year one thousand eight hundred and fifty-four.

Chapter 60 revised statutes, and 13 Vic., chapter 36, continued to 1st May, 1854.



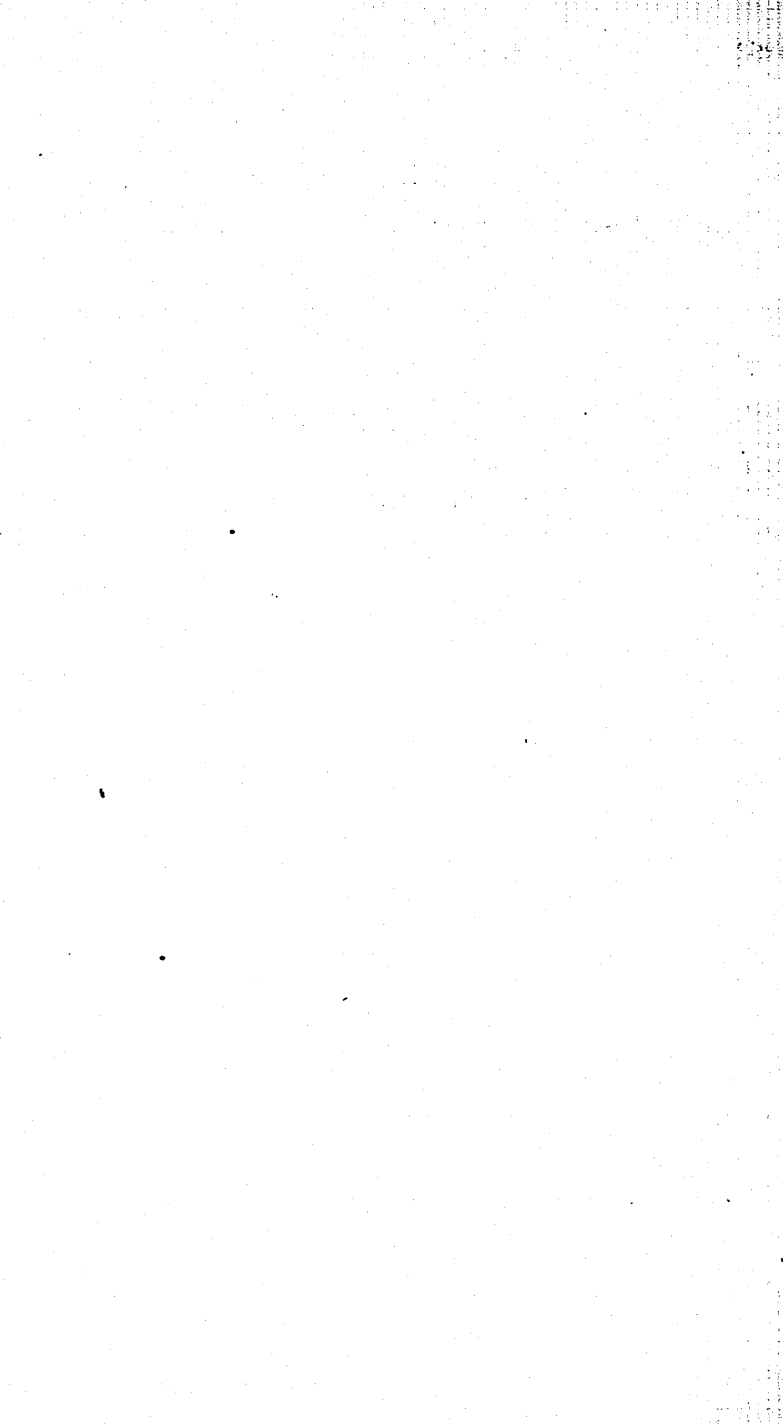
**CHAPTER 28.****An Act to continue the Laws imposing Customs Duties.**

(Passed the 31st day of March, A. D. 1853.)

SECTION 1. Laws imposing customs duties continued to 1st April, 1854.

Be it enacted by the governor, council, and assembly, as follows :  
1. Chapter twelve of the revised statutes, "Of customs duties,"  
except as amended by sections two and three of the act, passed in  
the fifteenth year of her majesty's reign, entitled, "an act to con-  
tinue and amend the revenue laws," is continued, together with  
those sections, until the first day of April, in the year one thousand  
eight hundred and fifty-four.

Laws imposing  
customs duties  
continued to 1st  
April, 1854.



**CHAPTER 29.****An Act relating to the placing of Draws in Bridges.**

[Passed 31st day of March, A. D. 1853.]

SECTION 1. Sessions authorised to place draws in bridges. Draw-bridges subject to revised statutes, chapter 71.

Be it enacted by the governor, council, and assembly, as follows :

1. The sessions, upon the presentment of the grand jury, are authorized to cause draws to be made in any of the bridges erected or to be erected over the rivers in this province ; and all such bridges so converted into draw-bridges, shall be thereafter subject to all the provisions of chapter seventy-one of the revised statutes ; but nothing herein contained, shall authorise the placing a draw in any bridge built under any charter or act of incorporation.

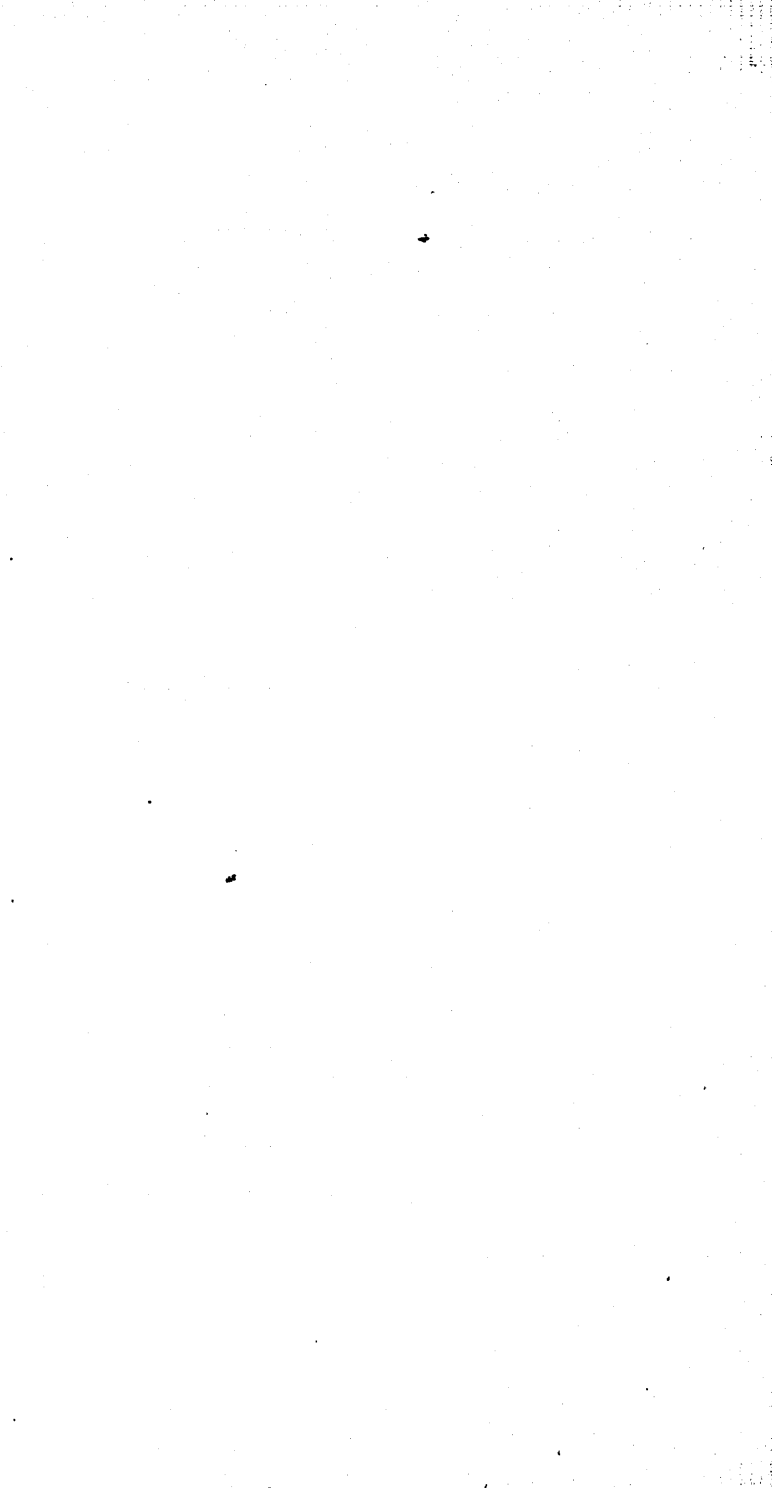
Sessions authorised to place draws in bridges.

Drawbridges subject revised statutes, chapter 71.

---

HALIFAX, N. S.—JOHN S. THOMPSON, QUEEN'S PRINTER.





**CHAPTER 30.****An Act to continue the Militia Law.**

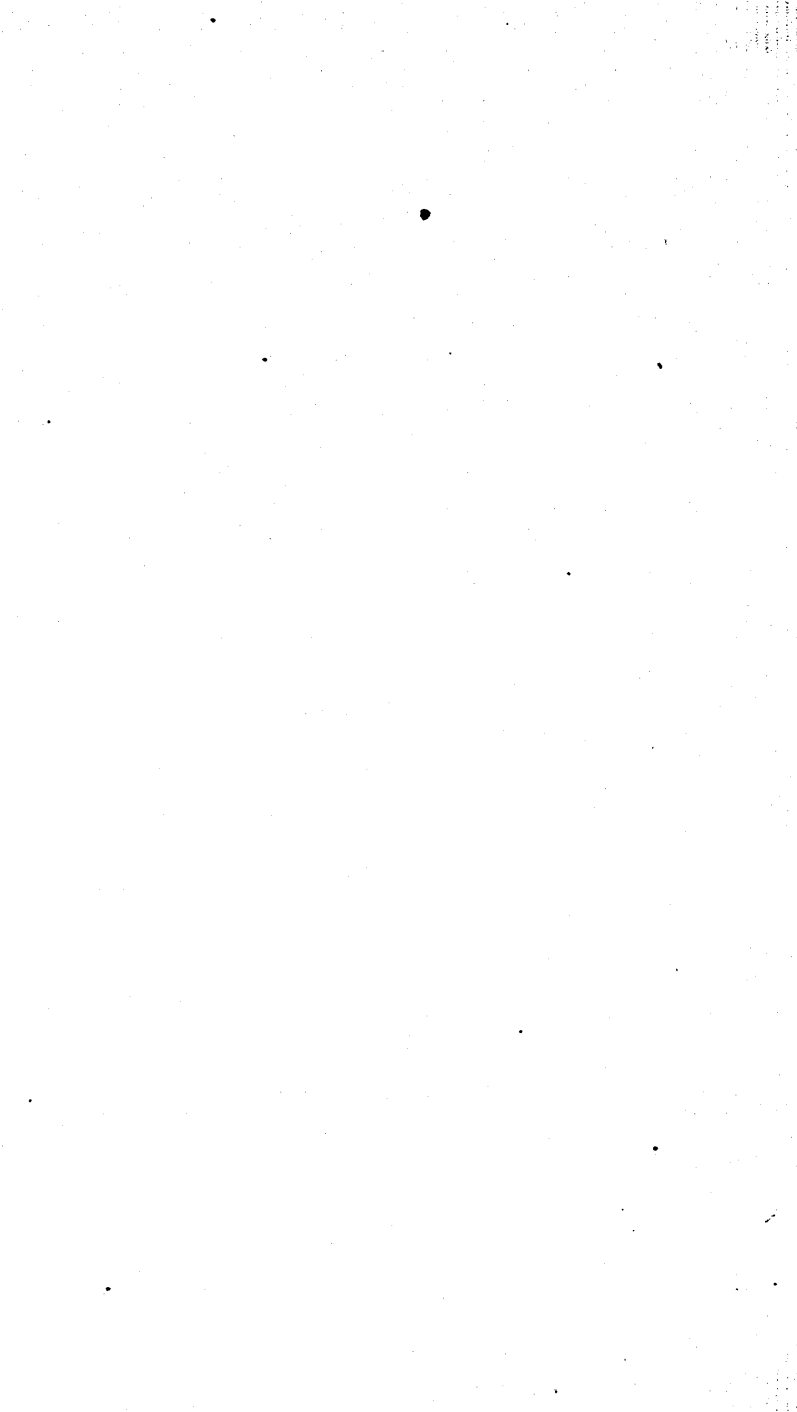
[Passed 31st day of March, A. D., 1853.]

SECTION 1. Chapter 29 revised statutes continued to 1st April, 1854.

Be it enacted by the governor, council, and assembly, as follows:

1. Chapter twenty-nine of the revised statutes, "Of the militia," is continued in force, until the first day of April, in the year one thousand eight hundred and fifty-four.

Chapter 29 revised statutes continued until 1st April, 1854



**CHAPTER 31.****An Act to continue the Law imposing Light House Duties.**

(Passed the 31st day of March, A. D. 1853.)

SECTION 1. Chapter 29 revised statutes continued to 1st April, 1854.

Be it enacted by the governor, council, and assembly as follows :

1. Chapter twenty-one of the revised statutes, "Of light house duties," is continued until the first day of April, in the year one thousand eight hundred and fifty-four.

Chapter 21 revised statutes continued till 1st April, 1854.



## CHAPTER 32.

## An Act for the management of certain Great Roads of this province.

[Passed the 4th day of April, A. D. 1853.]

## SECTION.

1. The following roads to be under charge and management of the governor in council, viz: great eastern road, road from Truro to frontier, N. B., eastern shore road, New Guysborough road, southern shore road, great western road.
2. To be divided into sections, and supervisors appointed for each.
3. Supervisors—their authority.

## SECTION.

4. To expend money. Apportionment of road monies, by legislature, not impaired.
5. Mode of expenditure.
6. Supervisors to furnish reports.
7. To be governed by orders from governor in council, such orders to be approved by legislature.
8. Supervisors—how remunerated.
9. Road work—contract and day's labor.

Be it enacted by the governor, council, and assembly, as follows :

1. It shall be lawful for the governor in council to assume the charge and management of the undermentioned great roads, that is to say :

First. The great road east, from Halifax to Sydney, Cape Breton, passing through the counties of Halifax, Colchester, Pictou, Sydney, Inverness, Richmond, and Cape Breton.

Second. The great road north, from Truro to the frontier of New Brunswick.

Third. The eastern shore road, from Dartmouth to Ship Harbor.

Fourth. The new Guysboro' road, from the point of intersection with great eastern road at Pollock's to dividing line between the counties of Halifax and Guysboro'.

Fifth. The southern shore road, from head of North West Arm to dividing line between the counties of Halifax and Lunenburg.

Sixth. The great western road, from the city of Halifax to Avon bridge, in the county of Hants.

2. It shall be lawful for the governor in council to lay off the great roads herein mentioned in convenient sections, not exceeding one hundred miles, and to appoint one supervisor for each of the sections so laid off and determined.

3. Such supervisors, when duly commissioned and appointed, shall have the general charge and superintendence of the sections of great road which shall be respectively entrusted to their care.

4. The supervisors shall be entrusted with the expenditure of whatever sums are annually voted by the legislature for the maintenance, repair, and improvement of such great roads, the power of the legislature to subdivide and apportion the great road monies not being impaired by this act.

The following roads to be under charge and management of the governor in council, viz:  
Great eastern road,

Road from Truro to frontier N. B.,  
Eastern shore road,  
New Guysboro' road,

Southern shore road,

Great western road.

To be divided into sections, and supervisors appointed for each.

Supervisors—their authority.

To expend money.

Apportionment of road monies, by legislature, not impaired.

Mode of expenditure.

5. In the expenditure of such monies, and in the mode of accounting for the same, (except in so far as the law may be varied by any order in council which may be hereafter made and promulgated,) the supervisors shall be guided and bound by the laws of this province, and (except when restrained by any order in council) shall possess and exercise all the powers now by law possessed and exercised by commissioners of highways.

Supervisors to furnish reports.

6. It shall be the duty of such supervisors to furnish annual reports of the state, condition, and requirements of the sections of roads committed to their charge, with suggestions for their improvement, and detailed estimates of the probable cost of the alterations and improvements so suggested.

To be governed by orders from governor in council, such orders to be approved by legislature.

7. It shall be lawful for the governor in council to issue, from time to time, such orders and instructions to the supervisors, as may seem meet, such orders and instructions to be laid before the legislature within ten days of the opening of the next session, and to have the force of law until the same shall be disapproved.

Supervisors—how remunerated.

8. The rate of remuneration to the supervisors to be appointed under this act, shall in no case exceed the amount of commissions which is now by law given to commissioners of roads, except where surveys of new and important sections of roads are made, and then they shall be entitled to charge at the same rate as is now paid to surveyors for the like service.

Road work—contract and day's labor.

9. All road work shall be done by tender and contract, except where the expenditure of the money by days' work may be more advantageous to the public, and so testified to by the supervisor.

## CHAPTER 33.

An Act for applying certain Monies therein mentioned for the service of the year one thousand eight hundred and fifty-three, and for other purposes.

(Passed the 4th day of April, A. D. 1853.)

MAY IT PLEASE YOUR EXCELLENCY :

We, her majesty's dutiful and loyal subjects, the house of assembly of her majesty's province of Nova Scotia, towards appropriating the supplies granted to her majesty, and for supplying the exigencies of her majesty's government, do humbly beseech that it may be enacted; and

Be it enacted by the governor, council, and assembly, as follows :

1. Out of the monies which now are, or from time to time shall be or remain in the public treasury of this province, there shall be paid the following sums, viz. :

Two hundred pounds to the speaker of the house of assembly, for his salary as speaker, for the present year. 200l speaker.

Two hundred pounds to the clerk of the house of assembly, for his services for the same year. 200l clerk, H. A.

Twenty-five pounds to the chaplain of the house of assembly, for his services during the present session. 25l chaplain.

One hundred pounds to the clerk assistant of the house of assembly, for his services for the same session. 100l assistant clerk.

Fifty pounds to the sergeant-at arms to the house of assembly, for his services for the same session. 50l sergeant at arms.

Thirty pounds to the assistant sergeant at arms to the house of assembly, for his services for the same session. 30l assistant sergeant at arms.

Forty pounds to the messenger of the governor, and the executive and legislative councils, for the present year. 40l messenger of governor.

Thirty pounds to John Fitzgerald, for his services as messenger to the house of assembly during the present session. 30l J. Fitzgerald.

Eighty pounds to the clerk of the board of revenue, for his services for the present year. 80l clerk board of revenue.

Two hundred pounds to the gauger and weigher for the district of Halifax, for his services for the present year, to include the marking of casks, if required by the government. 200l gauger and weigher.

One hundred pounds to the proof officer at Halifax, for his services in that capacity for the present year, and in lieu of all contingent expenses connected therewith. 100l proof officer.



Allowance to waiters.

Such further sum to be paid on the certificate of the board of revenue as may be sufficient to pay at the rate of seven shillings and six pence a day, such persons as shall be employed by the receiver general as extra waiters for the port of Halifax, during the present year—five shillings a day to such extra waiters when unemployed, and at the rate of five shillings a day to temporary waiters:

60/ keeper of assembly.

Sixty pounds to the keeper of the assembly house, council chamber, and law library, for the present year.

400/ Sable Island.

Four hundred pounds, at the disposal of the governor, for the support of the establishment at Sable Island for the present year.

20/ E. Crowell.

Twenty pounds to Edmund Crowell, to enable him to keep his establishment at Seal Island, for the relief of shipwrecked passengers for the present year.

50/ packet, Guysborough.

Fifty pounds to such persons as will run a proper packet between Guysborough and Arichat, touching occasionally at Fox Island and Canso, under the regulations of the sessions for the counties of Guysborough and Richmond, to be paid on the certificate of such sessions that the packet has been properly kept and run during the present year: Provided that the judges of the supreme court shall be taken without charge, if required, from Guysborough to Arichat, and from Arichat to Guysborough, on their circuit to Cape Breton, and that the packet shall also carry the mail between Guysborough and Arichat, if required.

20/ ferry, Shubenacadie.

Twenty pounds to aid the inhabitants of Douglas, at the mouth of the river Shubenacadie, in supporting a suitable boat or scow to run between Londonderry and that place—such boat or scow to be run under the regulations of the sessions for the county of Hants, to be paid upon the certificate of three justices of the peace residing in Douglas, that such boat has been running at least twice a week for six months to their satisfaction, under the regulations aforesaid.

30/ ferry, Cape Breton.

Thirty pounds to aid the inhabitants of Cape Breton in supporting a suitable boat or scow to run between McMillan's point in Cape Breton and Auld's cove, in the county of Sydney—such boat or scow to be placed under the regulations of the sessions for the county of Inverness.

10/ each, ferrymen, Shubenacadie.

Ten pounds to each of the licensed ferryman at the mouth of the Shubenacadie, in the counties of Colchester and Hants, for the transportation of horses and carriages across that river—to be paid on the certificate of the general or a special sessions of each county respectively, that such ferry has been duly attended, and proper boats procured and used.

10/ each, J. & C. Pernette.

Ten pounds each to Joseph Pernette and Charles Pernette, for keeping up the ferry over LaHave River.

10/ Cornelius Craig.

Ten pounds to Cornelius Craig, to enable him to keep up a ferry across the Narrows at the entrance of Sable River, in the county of Shelburne, under the regulations of the sessions, and to be paid upon their certificate.

Ten pounds to John Carter, or such other person as shall run a ferry boat or scow between his landing on the western side of the Gut of Canso, and Alexander McPherson's on the eastern side thereof—to be paid on the certificate of the sessions for the county of Guysborough, that such boat or scow has been provided and run under their regulations and to their satisfaction.

10l John Carter.

Ten pounds to Alexander McPherson, to enable him to run a suitable ferry boat or scow between his landing on the eastern side of the Gut of Canso and John Carter's, on the western side thereof—to be paid on the certificate of the sessions for the county of Richmond, that such boat or scow has been provided and run under their regulations and to their satisfaction.

10l A. McPherson.

Ten pounds each to such persons as shall respectively keep up a ferry at the mouth of the harbor of Port L'Hebert—provided a boat be kept to convey horses and cattle across the harbor—to be paid on the certificate of the sessions for the county of Shelburne, that such boat has been properly kept and run under their regulations.

10l ferry, Port L'Hebert.

Ten pounds to Duncan McPhee, to enable him to maintain a ferry between Low Point and the Sydney Mines, at the mouth of Spanish river, in the county of Cape Breton—to be paid on the certificate of three of the justices of the peace for the county of Cape Breton, that he has faithfully discharged the duties assigned him by the sessions.

10l D. McPhee.

Fifteen pounds to William Cunningham and John Knowles, or such persons as shall keep a ferry across the Narrows of the passage between Cape Sable Island and the main—such persons being furnished with suitable boats for the accommodation of passengers—to be paid on the certificate of the sessions for Shelburne, that such boats have been properly kept and run under their directions.

15l W. Cunningham, &amp;c., ferry, Cape Sable Island.

Fifteen pounds to aid in maintaining a ferry, during the present year, between Amherst and Minudie—such ferry to be under the regulations of the sessions for the county of Cumberland, and the foregoing sum to be paid on their certificate, that the same has been conducted to their satisfaction.

15l ferry, Amherst.

Ten pounds each to the two licensed ferrymen at the mouth of the Grandique River, in the county of Richmond—to be paid on the certificate of the sessions of the county, that the work has been faithfully performed, and the public properly accommodated.

10l ferry, Grandique.

Twenty pounds to be at the disposal of the governor, to provide for the maintenance of ferries across Sheet harbor and the mouth of the North West-arm, in the county of Halifax.

20l ferries, Sheet harbor and North-west Arm.

Five pounds, each, to such persons, one on each side of Liscomb's Harbor, in the county of Guysborough, as shall maintain a ferry across the harbor during the present year, to be paid on the certificate of three justices of the peace for the county, that suitable boats have been provided, that the ferry has been conducted under the regulations of the sessions, and that the public have been properly accommodated.

5l each, ferries, Liscomb's Harbor.

5l Robert  
McNutt.

Five pounds to Robert McNutt, to aid him in keeping up a ferry across River Philip—such ferry to be under the regulation of the sessions of the county of Cumberland, and the foregoing sum to be paid on their certificate, that the same has been conducted to their satisfaction.

5l John Leary.

Five pounds to John Leary, the ferryman at Basin Gut, Sambro, in the county of Halifax.

10l each, fer-  
rymen, Bras  
d'Or Lake.

Ten pounds each to the two ferrymen at Big Harbor, Bras d'Or Lake, in the county of Victoria—to be paid on the certificate of the sessions, that the ferry has been properly kept up for the accommodation of the public.

25l Commission-  
ers poor.

Twenty-five pounds to the commissioners of the poor in Halifax, to defray the expense of continuing the school in the poor house for the present year, for the benefit of orphans and poor children in that establishment.

50l Doctor Gri-  
gor.

Fifty pounds to the honorable Dr. Grigor and his associates, in aid of the Halifax dispensary for the present year, provided they keep during the year a sufficient quantity of vaccine matter.

300l Indians.

Three hundred pounds to be at the disposal of the governor, for the benefit of the Indians for the present year.

100l breakwater  
French Cross.

A sum not to exceed one hundred pounds, to be at the disposal of the governor, to aid in the erection of a breakwater at French Cross, Aylesford, in King's county.

40l breakwater  
Cape Cove.

A sum not to exceed forty pounds, to be at the disposal of the governor, to aid in the erection of a breakwater at Cape Cove, Clare, in the county of Digby.

100l Gates'  
breakwater.

A sum not to exceed one hundred pounds to be at the disposal of the governor to aid in the erection of Gates' breakwater, Wilmot, in the county of Annapolis.

50l breakwater  
Canada creek.

A sum not to exceed fifty pounds, to be at the disposal of the governor, to aid in the erection of a breakwater at Canada creek, in King's County.

75l breakwater  
Ogilvie brook.

A sum not to exceed seventy-five pounds, to be at the disposal of the governor, to aid in the erection of a breakwater at Ogilvie brook, in North Western Cornwallis, King's County.

50l breakwater  
Groscoque.

A sum not to exceed fifty pounds, to be at the disposal of the governor, to aid in the erection of a breakwater at Groscoque, Clare, in the county of Digby.

25l Everett's  
wharf.

A sum not to exceed twenty-five pounds, to be at the disposal of the governor, to aid in the erection of Everett's wharf, at St. Mary's Bay, in the county of Digby.

75l breakwater  
Billevous cove.

A sum not to exceed seventy-five pounds, to be at the disposal of the governor, to aid in extending the breakwater at Billevous cove, Clare, in the county of Digby.

10l breakwater  
Bass creek.

A sum not to exceed ten pounds, to be at the disposal of the governor, to aid in the erection of the breakwater at Bass creek, in King's County.

40l breakwater  
I. Woodworth's.

A sum not to exceed forty pounds, to be at the disposal of the governor, to aid in the erection of a breakwater at Ira Woodworth's inlet, shore of the Bay of Fundy, Cornwallis.

A sum not to exceed two hundred pounds, to be at the disposal of the governor, to aid in extending the Margaretville pier, at Wilmot, in the county of Annapolis. 200<sup>l</sup> Margaretville pier.

A sum not to exceed thirty-three pounds, to be at the disposal of the governor, to be applied to pay James Corbet one fourth of the over-expenditure in building a breakwater at Freeman's Creek, Amherst, in the county of Cumberland. 33<sup>l</sup> James Corbet.

Twenty-five pounds to aid in erecting a public slip for landing at Digby, to be paid on the certificate of the sessions to such person as shall perform the work satisfactorily. 25<sup>l</sup> public slip, Digby.

Seven pounds and ten shillings to C. Smith, to enable him to keep a ferry over Necum Teuch river, eastern shore, in the county of Halifax. 7<sup>l</sup> 10s C. Smith.

Seven pounds and ten shillings to aid in establishing a ferry during the present year over Liscomb harbor, opposite the highway at Clare Head, in the county of Guysborough—such ferry to be under the regulation of the sessions, and the amount to be paid on their certificate that the same has been conducted to their satisfaction. 11<sup>l</sup> 10s ferry, Liscomb harbor.

Ten pounds to aid in establishing a ferry during the present year between Milford and Ship harbor, in the county of Guysborough, and to aid in providing suitable boats for the purpose—such ferry to be under the regulation of the sessions, and the amount to be paid on their certificate that the same has been conducted to their satisfaction. 10<sup>l</sup> ferry, Milford and Sheet harbor.

Twenty pounds to aid in procuring a more efficient and comfortable boat, to run as a ferry boat between Baddeck, in the county of Victoria, and Messrs. Gammel's, in the county of Cape Breton—such ferry to be under the regulations of the sessions for both said counties, and the amount to be paid on their joint certificate that the boat has been run twice a week, and the ferry conducted to their satisfaction. 20<sup>l</sup> ferry, Baddeck.

Ten pounds to aid in procuring more suitable boats for the use of the ferry near the northern entrance of the Strait of Canso; such ferry to be under the regulation of the sessions, and the amount to be paid one-half to each of the two ferrymen keeping such ferry, on the certificate of the sessions; that such boats have been procured and the ferry conducted to their satisfaction. 10<sup>l</sup> ferry, Strait of Canso.

Fifteen pounds, to be at the disposal of the governor, to be expended in placing buoys in the channel of Port Hood, south western side of Cape Breton. 15<sup>l</sup> buoys, Port Hood, Cape Breton.

Ten pounds, to be at the disposal of the governor, to be expended in placing buoys at the entrance of Merigomish harbor. 10<sup>l</sup> buoys, Merigomish.

Fifteen pounds to be at the disposal of the governor, to aid in repairing the public wharf, and in removing obstructions from the side of the channel at the wharf in Bridgeport, Cape Breton. 15<sup>l</sup> wharf, Bridgeport, C. Breton.

A sum not to exceed fifteen pounds, to be at the disposal of the governor, to aid in clearing out obstructions and in deepening the channel of the Back harbor, in the Township of Lunenburg—to be drawn and applied for that purpose when it shall appear to the 15<sup>l</sup> Back harbor Lunenburg.

satisfaction of the governor in council, that forty-five pounds have been subscribed and expended thereon since this grant, so that the whole expenditure shall amount to sixty pounds.

200/ channel,  
Inverness.

A sum not to exceed twenty pounds, to be at the disposal of the governor, to aid in cutting a channel through the beach into the back pond near Broad Cove, in the county of Inverness—to be drawn and applied for that purpose when it shall appear to the governor in council, that sixty pounds have been subscribed and expended thereon since this grant, so that the whole expenditure shall amount to eighty pounds.

100/ St. Croix  
river, Hants.

A sum not to exceed ten pounds, to be at the disposal of the governor, to aid in clearing out obstructions, and otherwise improving St. Croix river above Lynch's mill, in the county of Hants; to be drawn and applied for that purpose when it shall appear to the governor in council, that thirty pounds have been subscribed and expended thereon since this grant, so that the whole expenditure shall amount to forty pounds.

200/ Arisaig  
pier.

A sum not to exceed two hundred pounds, to be at the disposal of the governor, to aid in the building and extending Arisaig Pier in the county of Sydney—to be drawn and applied for that purpose when it shall appear to the governor, in council, that the additional sum of two hundred pounds, including the sum of nineteen pounds five shillings and nine pence, over-expenditure during the last year, has been subscribed and expended thereon, so that the whole expenditure shall amount to four hundred pounds.

150/ Sissiboo  
river.

A sum not to exceed one hundred and fifty pounds, to be at the disposal of the governor, including the grant of last session, to aid in clearing out and improving Sissiboo river in the county of Digby; to be drawn and applied for that purpose when it shall appear to the governor in council, that the additional sum of three hundred pounds has been subscribed and expended thereon.

100/ Liverpool  
river.

A sum not to exceed one hundred pounds, to be at the disposal of the governor, to aid in clearing out and improving the Liverpool river, in Queen's county, to be drawn and applied for that purpose when it shall appear to the governor, in council, that the additional sum of two hundred pounds has been subscribed and expended thereon.

300/ Light hou-  
ses.

A sum not to exceed eight hundred pounds, in addition to the balance remaining undrawn from the grant for a similar service last year, to be at the disposal of the governor, to aid in the erection of light houses at the following places during the present year, or as soon as the necessary arrangements can be made :

A light house at the Ragged Islands, county of Shelburne.

A light house at the south east end of Pictou Island.

A light house on the main land at the entrance of the harbor of Port Hood, on the Western coast of Cape Breton.

A light house on Whitehead Island.

100/ life boats,  
Sable Island.

One hundred pounds remaining unexpended from the appropriation for providing life-boats and other apparatus for the preserva-

tion of wrecked persons, to be at the disposal of the governor to be applied in procuring life-boats for the use of Sable Island, and such other places as the governor in council may direct.

Three pounds fourteen shillings and three pence to Robert S. Eakins, for his services as clerk of customs at Argyle. 3/ 14s 3d Robert S. Eakins.

Three pounds and fifteen shillings to the executors of the late David Van Norden in full for his services to the time of his decease. 3/ 15s executors D. Van Norden.

Twenty-four pounds one shilling and eight pence to the following persons, being a return of duties paid by them on machinery imported from the United States of America, to be distributed as follows :—

Lequille Mills Company,	£3	15	0
Alexander Stewart,	3	3	2
Timothy Barnaby,	15	12	6
Jonathan Archibald,	1	11	0
	<hr/>		
	£24	1	8

Four pounds and eight shillings to the following persons, being a return of light duties paid on their vessels respectively, lost on their first voyage, to be distributed as follows: 4/ 8s return of light duties.

To Melanie Beausejour,	£1	14	6
“ Benjamin Nason,	2	13	6
	<hr/>		
	£4	8	0

One pound sixteen shillings and five pence to Acheson Moffat, being a return of duties paid by him on a puncheon of molasses. 1/ 16s 5d Acheson Moffat.

Forty-six pounds sixteen shillings and three pence to the hon. Alexander Keith, being the excess of duties paid by him on 428 gallons of home manufactured whiskey, pursuant to the report of the committee on trade. 46/ 16s 3d A. Keith.

Thirty-three pounds and eleven shillings to the following persons, being a return of duties paid by them on American middlings flour, manufactured by them into navy bread; to be distributed as follows: 33/ 11s return of duties on flour.

A. C. Condon,	£16	16	0
Edward Jost,	16	15	0
	<hr/>		
	£33	11	0

Twenty-seven pounds fourteen shillings and nine pence to doctor Anderson and Johnston, health officers of the port of Pictou, pursuant to the report of the committee, upon their releasing their judgment against Thomas Moody, as directed in said report. 27/ 14s 9d doctors Anderson and Johnston.

Ten pounds to Thomas Moody of Pictou, pursuant to the report of the committee on his producing the deed to himself from Wm. Scott as directed in such report. 10/ Thomas Moody.

Ten pounds, to be at the disposal of the governor, to be applied in paying the amount still due for certain charges connected with sick immigrants at the port of Pictou, pursuant to the report of the committee on sick immigrants. 10/ sick immigrants Pictou.

31 3s 6d over-  
seers poor.  
Guysborough.

Three pounds two shillings and ten pence to the overseers of the poor for the township of Wilmot, in the county of Guysborough, pursuant to the report of the committee on shipwrecked seamen.

21 7s 6d Cather-  
rine McPher-  
son.

Two pounds seven shillings and six pence to Catherine McPher-  
son, pursuant to the report of the committee on shipwrecked seamen.

11 5s 3d Chris-  
tian Stone.

One pound five shillings and three pence to Christian Stone,  
pursuant to the report of the committee on shipwrecked seamen.

35/ damage to  
lands.

Thirty-five pounds to be at the disposal of the governor, to pay the following amounts, in full of all claims by the parties for damage done by the opening of roads through their lands, pursu-  
ant to the report of the committee on that subject.

James M. Chamberlain,	£15	0	0
Roderick Fraser,	10	0	0
Murdoch McKenzie,	10	0	0

---

£35 0 0

51 15s pauper  
returns.

Five pounds and fifteen shillings, to be at the disposal of the governor, to pay the expense incurred in procuring certain pauper returns, pursuant to the report of the committee on that subject, to be distributed as follows :

Andrew Barclay, county of Shelburne,	£2	10	0
Henry Stewart, county of Digby,	1	10	0
Charles B. Owen, county of Lunenburg,	1	15	0

---

£5 15 0

61 Henry Old-  
wright.

Six pounds to Henry Oldwright, for his services as interpreter at the trial of Gabriel Moriano, pursuant to the report of the com-  
mittee.

151 Rebecca  
Langley.

Fifteen pounds to Rebecca Langley to assist her in keeping a house of entertainment for travellers on the road between Musquod-  
doboit and St. Mary's.

21 Samuel  
Breck.

Forty shillings with interest at the rate of six per cent. per annum from the tenth day of april, 1767, to Samuel Breck, of Philadelphia, being the amount of debenture of the province of Nova-Scotia, bearing date the tenth day of april, 1764, and held by the said Samuel Breck.

7001 Andrew  
Downs.

One hundred pounds to be at the disposal of the governor to enable Andrew Downs to improve the breed of poultry in this province, pursuant to the report of the committee on that subject.

251 packet,  
Horton, &c.

Twenty-five pounds in aid of the packet between Horton and Parrsborough, and Windsor and Parrsborough, such packet to make two trips each week and carry the mails.

501 colored  
population,  
Halifax.

Fifty pounds to be at the disposal of the governor, to be expended in affording relief to the colored population in the county of Halifax, by purchasing seed or provisions as circumstances may require.

1001 colored  
population,  
Hants, &c.

One hundred pounds to be at the disposal of the governor, to purchase seed for distribution among the colored population in the counties of Hants, Queen's, Yarmouth, Guysborough, Annapolis,

Sydney, Shelburne, Digby, King's and Cumberland, to the amount of ten pounds in each county.

One thousand and six hundred pounds to the commissioners of the poor, in Halifax, for the support of the transient paupers, for the present year. 1600l commissioners poor, Halifax.

Two pounds and ten shillings, each, to two ferrymen, one on each side of the Petite passage, and five pounds to the ferrymen at the Grand passage, in the county of Digby, to be paid on the certificate of three justices of the peace for the county, that suitable boats have been provided—that the respective ferries have been conducted under the regulation of the sessions, and that the public have been properly accommodated. 2/10s each, and 5l ferrymen, Digby.

Five hundred pounds, to be at the disposal of the governor, for the purpose of commencing a legislative library, pursuant to the recommendation of the committee on that subject. 500l legislative library.

Two hundred pounds to aid in the erection of a bridge over Milford Haven river, in the county of Guysborough. 200l bridge, Milford Haven river.

One hundred and five pounds nine shillings and four pence to the commissioners of the industrial exhibition of 1851, being the balance due by them to the provincial agent, in London, pursuant to the report of the committee. 105l 9s 4d commissioners industrial exhibition.

One hundred and ninety-eight pounds to defray the several amounts following, pursuant to the report of the Committee on the subject of expenses incurred for the support of transient paupers: 198l transient paupers.

To overseers of the poor for the township of Falmouth :

For Dr. Fraser,	£2	0	0			
James Taylor,	2	15	0			
E. Smith,	0	10	0			
John Akins,	0	16	3			
					6	1 3

To overseers of the poor for the township of Dorchester,

Ditto Chester,	3	12	6		15	7 3
Ditto For Dr. Kirby,	4	0	0			
					7	12 6
Ditto Liverpool,					9	15 0
Ditto Guysborough,					9	10 6
Ditto Clements,	35	0	0			
For Dr. Leslie,	4	0	0			
					39	0 0

Ditto Horton,						
For George Hamilton,	2	12	6			
Alexander Buchanan,	3	0	8			
Ebenezer Caldwell,	2	0	0			
Dr. Brown,	4	18	6			
George Harvey,	5	19	0			
					18	10 8



Chas. Weeks, overseer for Amherst,	10	12	6	
John Costin,	8	0	0	
Dr. Page,	7	10	0	
	<hr/>			£26 2 6

Overseers for Township of Cornwallis.	3	18	3	
John Wood,	1	10	0	
Dr. Webster,	0	10	0	
	<hr/>			5 18 0

Dr. Madden, for attendance on Sophia Pizarro,				8 0 0
---	--	--	--	-------

## Overseers of first section of Pictou :

For expenses Nicholas Enouf,	4	0	0	
Hannah Finlayson,	1	5	1	
James Farrell,	5	12	6	
Nancy White,	4	0	0	
Thomas Lordley,	5	5	0	
Peggy Berrigan,	6	10	0	
Samuel Sharp,	0	5	0	
J. Randolph and wife,	0	9	9	
Dr. Anderson,	7	1	9	
	<hr/>			35 0 1

Eliza Walker, of Isle Madame,				6 5 0
Overseers for the township of Aylesford,				2 2 6
Overseers for the township of Yarmouth :				
Expenses of W. F. Pickthorne,				7 2 6
F. Rysack,				2 0 0
	<hr/>			£198 8 0

80l sterling,  
clerk of crown.

Eighty pounds sterling to the clerk of the crown in the supreme court in this province, for his services for the present year.

204l 13s 2d law  
commission.

Two hundred and four pounds thirteen shillings and two-pence, to John W. Ritchie, and Joseph Whidden, Esquires, the clerks to the law commission to defray the expenses in discharging the duties of that commission.

Postage public  
departments.

Such sum to be at the disposal of the governor, as will be sufficient to repay the amount advanced from the treasury, to defray the expense of postage of the public departments during the past year.

1100l peniten-  
tiary.

One thousand one hundred pounds, to be at the disposal of the governor, to defray the expenses of the penitentiary for the present year.

528l 1s 1d pub-  
lic printing.

Five hundred and twenty-eight pounds one shilling and one penny to be at the disposal of the governor to defray the amount still due for public printing, pursuant to the report of the committee on that subject.

The Queen's Printer,	£372	5	1
Richard Nugent,	117	9	8
William Annand,	25	16	0

E. McDonald,	£4 17 6
English & Blackadar,	2 10 0
William Gossip,	1 0 0
J. Ferguson,	1 0 0
James Barnes, 18s. A. Lawson, 15s.,	1 13 0
J. H. Crosskill, 15s. Angus M. Gidney, 14s. 10d.,	1 9 10
	<hr/>
	£528 1 1

Fifty pounds to be at the disposal of the governor, to enable him to pay the adjutant general of militia thirty pounds, and to the quarter master general, twenty pounds, for their services for the past year.

50/ adjutant and quarter master generals militia.

A sum not to exceed five hundred and forty pounds, to be at the disposal of the governor, to aid in the erection of oat mills and kilns, in the different counties, during the present year; provided no greater amount than thirty pounds be allowed for any one county; that no person who has heretofore received aid for such purpose shall be entitled to any participation in the grant; that no more than fifteen pounds be applied in aid of any one oat mill and kiln, and only to that amount in cases where the kiln is at least fourteen feet in diameter; that no aid be granted where the kiln shall not be eleven feet in diameter; and only ten pounds where the kiln shall be eleven feet, but not fourteen feet in diameter; and that no sum shall be paid hereunder until it shall appear by certificate, to the satisfaction of the governor in council, that the oat mill and kiln, for which any such aid shall be claimed, are ready to be put in operation, which certificate shall also state the diameter of the kiln, and that the person claiming aid has never before received any grant for the purpose.

540/ oat mills and kilns.

Three hundred and seventy-five pounds to such person as shall run a suitable steamboat between Halifax and St. John's, Newfoundland, touching at Cape Breton, going and returning—to be paid when it shall appear to the governor in council that the service has been properly discharged.

375/ steamboat Halifax and St. John's, Newfoundland.

Two hundred and fifty pounds to be paid by quarterly payments to the board of managers of the free church academy, at Halifax, for the present year, upon the same terms as those imposed upon grants to similar institutions in the year one thousand eight hundred and forty-five.

250/ free church academy.

Three hundred pounds, to be at the disposal of the governor, to pay for reporting and publishing the proceedings of the house of assembly, during the present session, to be applied under the direction of a committee to be appointed for that purpose.

300/ reporting proceedings of house of assembly.

Four hundred and sixty pounds, sterling, for the salaries of the clerks in the provincial secretary's office, for the present year, to be appropriated and applied by the provincial secretary.

460/ sterling clerks secretary's office.

A sum not exceeding one hundred pounds, sterling, for stationery and other contingencies of the provincial secretary's office, for the present year, the expenditure to be accounted for at the next session of the general assembly.

100/ sterling contingencies secretary's office.

15/ speaker.

Fifteen pounds to the honorable the speaker, to enable him to procure books and publications, necessary for conducting the business of the assembly.

10/ each, chairmen of committee.

Ten pounds, each, to the two chairmen of the committees of bills and supply, for their services for the present session.

100/ each, clerk and clerk assistant house of assembly.

One hundred pounds, each, to the clerk and clerk assistant of the house of assembly, for their extra services during the present session.

30/ sterling master of rolls.

Thirty pounds, sterling, to the master of the rolls, the judge of vice admiralty, and the judge of probate, at Halifax, for fuel and criers of their courts, for the present year.

7500/ great roads.

The sum of seven thousand and five hundred pounds for the great roads of this province, to be at the disposal of the governor, to be applied and expended agreeably to resolutions of the house of assembly, passed on the first day of April, 1853, and agreed to by the legislative council :

For the county of Halifax,	£910	0	0
“ “ Hants,	700	0	0
“ “ Colchester,	580	0	0
“ “ Pictou,	400	0	0
“ “ Cumberland,	470	0	0
“ “ Cape Breton,	470	0	0
“ “ Inverness,	420	0	0
“ “ Digby,	400	0	0
“ “ Lunenburg,	400	0	0
“ “ King’s,	350	0	0
“ “ Annapolis,	350	0	0
“ “ Yarmouth,	300	0	0
“ “ Shelburne,	300	0	0
“ “ Sydney,	200	0	0
“ “ Guysborough,	280	0	0
“ “ Richmond,	260	0	0
“ “ Victoria,	260	0	0
“ “ Queen’s,	200	0	0
For the road from Antigonish to New Glasgow, and to pay over-expenditure thereon,	250	0	0

---

£7500 0 0

Sums to be expended on roads and bridges.

The following sums for the several roads and bridges in the several counties in this province, to be applied and expended agreeably to resolutions of the house of assembly, passed on the first day of April, 1853, and agreed to by the legislative council :

For the county of Halifax,	£1840	0	0
“ “ Pictou,	1800	0	0
“ “ Inverness,	1650	0	0
“ “ Hants,	1500	0	0
“ “ Lunenburg,	1500	0	0
“ “ Colchester,	1460	0	0

For the County of Cumberland,	£1460	0	0
“ “ Cape Breton,	1420	0	0
“ “ King’s,	1350	0	0
“ “ Annapolis,	1300	0	0
“ “ Yarmouth,	1220	0	0
“ “ Shelburne,	1220	0	0
“ “ Digby,	1220	0	0
“ “ Sydney,	1220	0	0
“ “ Richmond,	1220	0	0
“ “ Victoria,	1220	0	0
“ “ Guysborough,	1220	0	0
“ “ Queen’s,	1180	0	0

£25,000 0 0

One thousand seven hundred pounds, to be at the disposal of the governor, to be expended in the road and bridge service; one hundred pounds thereof to each county, except the county of Guysborough, which latter county has received a special grant for a bridge thereon. 1700/ road and bridge service.

Two thousand seven hundred and six pounds nineteen shillings and six pence to the board of works, to defray the balance of expenditure incurred by them during the last year. 2706/ 19s 6d board of works.

Three hundred and ninety-four pounds three shillings and nine pence to the late commissioners of public buildings, to defray the balance of expenses incurred by them up to the time of their being superseded by the board of works. 394/ 3s 9d commissioners public buildings.

Fifty-six pounds thirteen shillings and seven pence, to the late commissioners of Sable Island, to defray the balance of expenses incurred by them, up to the time of their being superseded by the board of works. 56/ 13s 7d commissioners Sable Island.

Such sum to be at the disposal of the governor, as will enable him to defray the expenses of the post office department for the present year. Expences post office department.

A sum not exceeding three thousand pounds, to be at the disposal of the governor, to be expended in such manner as may be found most effectual for the protection of the fisheries. 3000/ fisheries.

Five pounds to the ferryman at Bear River, pursuant to the report of the committee on the post office. 5/ ferryman Bear river.

A sum not to exceed nine hundred pounds, to be at the disposal of the central board of agriculture, to be applied at the rate of fifty pounds for each county, in manner prescribed by the fourth section of chapter ninety-six of the revised statutes. 900/ central board of agriculture.

A sum not to exceed four hundred pounds, to be at the disposal of the governor, to enable him to import and procure stock and sheep, securing the most improved breed; to be sold when imported, and the proceeds applied to similar purposes. 400/ improved breeds stock.

One hundred pounds, to be at the disposal of the governor, to be applied in aid of a fair or cattle show to take place during the holding of the provincial industrial exhibition, or at such other time as the governor may direct. 100/ cattle show.

200/ board of  
agriculture.

Two hundred pounds to the central board of agriculture, to be applied in paying their officers, and such other incidental expenses as may be absolutely necessary; and the balance, together with the sum of one hundred and one pounds fourteen shillings and six pence in hand from last year, to be paid over by the central board to the commissioners of the Provincial Industrial Exhibition.

881/ 3d expen-  
ces legislative  
council.

Eight hundred and eighty-one pounds and three pence, to defray the expenses of the legislative council for the present year.

15/ William A.  
Henry.

Fifteen pounds to the Honorable William A. Henry, for services performed in investigating certain charges against a magistrate in the county of Guysborough.

15/ Lewis M.  
Wilkins.

Fifteen pounds to Lewis M. Wilkins, for services performed in investigating a charge of incendiarism at Bridgetown, county of Annapolis.

10/ Francis  
Duporte.

Ten pounds for the relief of Francis Duporte, to aid him in the purchase of a pair of artificial legs.

10/ Richard  
Meagher.

Ten pounds to Richard Meagher, a blind and lame man, pursuant to the prayer of his petition.

28/ chairman  
temperance  
committee.

Twenty-eight pounds to the chairman of the temperance committee, to defray the expense of printing in a pamphlet form, and in several newspapers, the report of the temperance committee of last year.

18/ 7s 6d John  
H. Crosskill.

Eighteen pounds seven shillings and six pence to John H. Crosskill, being the amount twice charged against him while queen's printer, pursuant to the report of the committee.

25/ William  
Chappell.

Twenty-five pounds to William Chappell, to encourage him to run a packet between the Bay Verte and Charlotte Town; provided such packet shall run at least once a week, from the first day of May, until the first day of November, under the regulations of the sessions for Cumberland.

3070/ 14s 9d  
advances pro-  
vincial treasury

Three thousand and seventy pounds fourteen shillings and nine pence, to be at the disposal of the governor, to repay the following advances made from the provincial treasury.

Contingent expenses of legislative council,	£878 14 2
W. Faulkner, for survey and report on point of intersection of railway to connect with Halifax,	17 4 0
W. Faulkner, for examination and report on claims for road damages at Boulardrie, Cape Breton,	21 15 0
W. Faulkner, for survey of new line of road from East River to Middle River, Pictou,	8 12 6
Richard Nugent, on account of public printing,	350 0 0
“ “ for printing 2nd volume of revised statutes,	138 5 7
Provincial secretary, on account of mission to Canada,	75 0 0
G. A. Blanchard, for examination and report on claims for road damage at Boulardrie, C. B.,	20 0 0

J. C. Hall, for investigating a complaint against a magistrate in the county of Annapolis,	£25	0	0
J. W. Harris, expenses attending above investigation,	13	10	9
Board of health, Pictou, to replace clothes of small pox patients, destroyed before liberation,	8	10	9
Post master general, in aid of post communication, for quarter ended, 5th July, 1852,	250	0	0
C. Wilson, mayor of Montreal, for relief of sufferers by late fire in that city,	500	0	0
Post master general, in aid of post communication, for quarter ended, 5th October, 1852,	400	0	0
W. Faulkner, for examination and report on Shubenacadie Canal property,	6	0	0
W. Faulkner, for surveying disputed line of road between Annapolis and Maitland,	8	2	0
	<hr/>		
	£3070	14	9

A sum, not to exceed six hundred and eighty pounds, to be at the disposal of the governor, to pay a sum not exceeding twenty pounds each, for their services during the present year, to the controllers of customs at the following ports, namely :

Annapolis,	Hants Port,	Ship Harbor,
Amherst,	Joggins Mines,	St. Mary's River,
Antigonish,	Londonderry,	(Sherbrooke,)
Advocate Harbor,	LaHave,	Sheet Harbor,
Barrington,	Maitland,	Tatamagouche,
Beaver River,	Pugwash,	Tusket,
Canada Creek,	Port Hood,	Walton,
Church Point,	Pubnico,	Wilmot,
Clements Port,	Port Medway,	Wallace,
Cornwallis,	Ragged Islands,	Westport,
Cape Canso, (Norris.)	Shelburne,	Weymouth.
Horton,		

And to such controllers as may be appointed by the governor, at other ports, during the present year.

Twelve pounds and ten shillings to the collector at Guysborough, for his services during the past year; and thirty pounds in addition to his per centage for the present year.

Eight pounds additional to the collector at Beaver River, for his services during the last year.

A sum not to exceed one hundred and fifty pounds, to be at the disposal of the governor, to be appropriated in paying seizing officers in various parts of this province, for more effectually protecting the revenues; provided no such officer shall receive more than fifteen pounds.

100/ books.

A sum not exceed one hundred pounds, to be at the disposal of the governor, for the purpose of procuring suitable books for keeping accounts in the respective offices in the outports of this province, in order to secure an uniform system of keeping books therein.

7/ collector,  
Liverpool.

Seven pounds to the collector of customs at Liverpool, in addition to the sum granted last year, for the purpose of procuring a revenue boat at that port.

10/ J. R. Richardson.

Ten pounds to James S. Richardson, for his services in furnishing returns to the committee on protection during the present session.

75/ steam boat  
St. Peter's.

Seventy-five pounds, to be at the disposal of the governor, to be paid to any person who will run a suitable steam-boat during the present year from St. Peter's through the Bras d'Or Lake to Sydney once a fortnight, and in the interval to ply as a passage boat regularly between Sydney and the North Bar.

100/ grammar  
schools Victoria.

One hundred pounds towards the support of two or three grammar schools in the county of Victoria, under the provisions of chapter sixty, of the revised statutes "of public instruction."

50/ infant  
school, Halifax.

Fifty pounds to the manager's of the infant school at Halifax, in support of that institution, during the present year.

79/ 16s 9d A.  
& W. McKinlay.

One hundred and ninety-two pounds sixteen shillings and nine pence, to A. & W. McKinlay, in full of their account for stationery and binding for the house of assembly during the last year.

205/ 9s 6d clerk  
house of assembly.

Two hundred and five pounds nine shillings and six pence, to the clerk of the house of assembly, to defray the expense of extra messengers, and other services, to pay for fuel and other articles for the house during the present session, pursuant to the report of the committee on contingencies.

41/ 16s 10d  
clerk house of  
assembly.

Forty-one pounds sixteen shillings and ten pence, to the clerk of the house of assembly, to be applied by him in payment of amounts due in connection with the publication of the revised statutes, as reported by the committee on that subject.

73/ George R.  
Grassie.

Thirteen pounds to George R. Grassie, Sergeant-at-Arms to the house of assembly, in addition to his salary for the present session.

23/ returns.

Twenty-three pounds to the following persons, in full of their claims for preparing certain returns required by government, to be distributed as follows :

Scott Tremain,	£15	0	0
James W. Nutting,	4	0	0
N. W. White,	4	0	0
	<hr/>		
	£23	0	0

50 publishing  
reports supreme  
court.

Fifty pounds, to be at the disposal of the governor, to be applied in procuring and publishing Mr. Thompson's collection of reports of certain decisions in the supreme court, pursuant to the report of the committee on that subject.

100/ reporting,  
&c. decisions  
supreme court.

A sum, not to exceed one hundred pounds per annum, to be at the disposal of the governor, to be expended in procuring the ser-

vices of some competent person to report and publish the decisions of the supreme court, pursuant to the report of the committee on that subject.

Forty pounds, to be at the disposal of the governor, to enable him to continue a suitable revenue boat at Cape Breton. 40/ revenue boat, C. Breton.

One hundred pounds, to be at the disposal of the governor, seventy-five pounds thereof to be expended in relieving distress in the county of Halifax, and twenty-five pounds for the same purpose in the county of Lunenburg. 100/ relieving distress.

One hundred and fifty pounds to the president and directors of the Lequille mills and manufacturing company, for the encouragement of that company in their enterprise. 150/ Lequille mills company.

Three hundred pounds for the roads and bridges in the county of Sydney, in addition to the grants already passed; to be provided for with interest out of the road money of that county for the next year. 300/ roads, Sydney.

Two hundred and fifty pounds sterling, to be at the disposal of the governor, for a private secretary for the present year. 250/ sterling governor's secretary.

A sum not to exceed two hundred and fifty pounds, to be at the disposal of the governor, to enable him to pay certain expenses incurred by the provincial secretary, in obtaining information in England, for the use of the government and legislature. 250/ provincial secretary.

Such sum to be at the disposal of the governor in council, as will suffice to compensate H. A. Gladwin, Esquire, of Musquodoboit, for whatever damage he may be found to have sustained in consequence of entering upon his land, for the purpose of laying out a road; such sum, when paid, to be in full satisfaction of any claim he may have for damages under the appraisement in respect thereof, confirmed by the sessions, and sanctioned by this house. Compensation to H. A. Gladwin.

2. Thirty-seven pounds ten shillings of the grammar school fund of the county of Annapolis, due in May, 1852, and undrawn, shall be paid to the trustees of the grammar schools in Bridgetown and Annapolis, in equal proportions, for the masters of such schools. 37/ 10s grammar schools, Annapolis.

3. Fifty pounds of the grammar school fund of the county of Annapolis, for the year ending May, 1853, which shall be undrawn, shall be paid to the trustees of the grammar schools in Annapolis and Bridgetown, in equal proportions, for the masters of such schools. 50/ grammar school, Annapolis.

4. Twenty-five pounds drawn last year, for grammar school in number 10 district, township of Barrington, shall be repaid by the commissioners of schools for that district to the superintendent of education, to be by him applied, pursuant to the report of the committee on education. 25/ grammar school, Barrington.

5. The allowances now made to the collegiate and academical institutions, (other than king's college, Windsor,) shall be continued under the existing regulations, for the period of one year only. Allowances to collegiate institutions continued.

6. Should the act for founding a college at Windsor be repealed, the governors of king's college shall, notwithstanding, receive a grant from the treasury in the present year, towards the support of the college to receive a grant. In case act repealed—governors of king's college to receive a grant.



of that institution, equal to four hundred and forty pounds eight shillings and ten pence.

10/ Timothy  
Barnaby.

7. Ten pounds claimed as duties on a steam boiler, imported by Timothy Barnaby, shall be remitted to him.

200/ David  
Ruggs.

8. Two hundred pounds claimed from David Ruggs, for one quarter's rent of his distillery, to the first day of April, shall be remitted to him, pursuant to the report of the committee on trade.

10/ William C.  
Williams.

9. The commissioners of schools for the district of Yarmouth, shall, out of the school fund of the district for the present year, pay to William C. Williams, late a licensed teacher, the sum of ten pounds, reported as due him by a select committee.

21/ 17s 6d  
breakwater.  
French Cross.

10. Twenty-one pounds seventeen shillings and six pence, shall be paid to the commissioners for the expenditure of the grant of last session, for the breakwater at French Cross, Aylesford, out of such grant; the same being one-fourth part of a sum expended by the people in repairing such breakwater in January last, and subsequent to any expenditure in relation to which any prior grant therefor was drawn.

700/ breakwater  
Pleasant Cove.

11. One hundred pounds, being the amount granted last session, to aid in the construction of a breakwater at Pleasant Cove, in the county of Digby, shall be paid to the commissioners of that work, in consideration of the heavy expenditure made, and no aid having been before granted by this house, notwithstanding part of the expense was incurred before the grant was made.

3/ road, Scott's  
Bay.

12. The sum of eight pounds, granted in 1852, to be expended in opening up an alteration of road at the Kerr Mountain, in Cornwallis, shall be applied on the old road up the mountain, and towards Scott's Bay.

Change of ap-  
propriation,  
Annapolis.

13. The following sums appropriated for the road service of the county of Annapolis, viz: four pounds eight shillings for Morton's bridge in Wilmot, in 1848, and seven pounds ten shillings, for completing the Potash bridge, in Wilmot, in 1852, (No. 141) shall be appropriated towards claying the main post road between Edward Norton's west line and the old Ruggles farm, in Wilmot.

Ditto.

14. The following sums of money, appropriated for the road service of the county of Annapolis, for 1852, and undrawn, viz: two pounds of the Gates mountain road grant, through district No. 31, and one pound of the grant for Handley mountain road, Nos. 121 and 126, shall be appropriated for the Dalhousie road from Birnie's meadow to the Liverpool cross.

20/ roads,  
Queen's county.

15. The sum of twenty pounds, granted in the session of 1852, to complete the alteration in Caledonia road, through Smith's land, in Queen's county, and remaining undrawn, shall be expended as follows: ten pounds on Whiteburn road from Caledonia road, and ten pounds from Whiteburn road towards Thomas Annise's; and the further sum of five pounds, granted in the same session, to repair main road from Waterloo street to African chapel, in said county, and remaining undrawn, shall be expended on the road from Caledonia road to John Tobin's.

16. The sum of five pounds, granted in the session of 1852, to repair the road from Alexander Chisholm's to Fort Belcher, and remaining unexpended, shall be appropriated to repair the road leading from Fort Belcher landing towards Onslow, past Wilson's.

5/ road, Onslow.

17. The sum of thirty-six pounds and eight shillings of the road monies of the county of Victoria, remaining undrawn from the treasury, shall be applied towards the road service in that county for the present year.

36/ Ss roads, Victoria.

18. The sum of forty-three pounds eight shillings and nine pence, granted for roads and bridges in the county of Richmond, in 1851 and 1852, undrawn, exclusive of ninety-two pounds, granted for the Little Arichat bridge, and six pounds to pay John McAulay, for an over-expenditure in said county, also undrawn, shall be appropriated as follows: twenty pounds to build a bridge on Little River, township of Hawsburn, ten pounds to repair the Ship Harbor bridge, and thirteen pounds eight shillings and nine pence, to repair the old bridge at Little Arichat, Isle Madame.

Change of appropriation, Richmond.

19. If any of the bridges on the main post roads of this province shall be unexpectedly obstructed by any unforeseen accident or obstacle, it shall be lawful for the governor to order a commissioner to re-build or repair such bridge, or to remove such obstructions; and it shall be lawful further for the governor to draw warrants on account and in favor of such commissioner: provided the sum so to be drawn shall not exceed for the year the sum of one thousand pounds, and the respective sums, so drawn, shall be charged at the next session of the assembly as against the several counties in which the same shall be respectively expended.

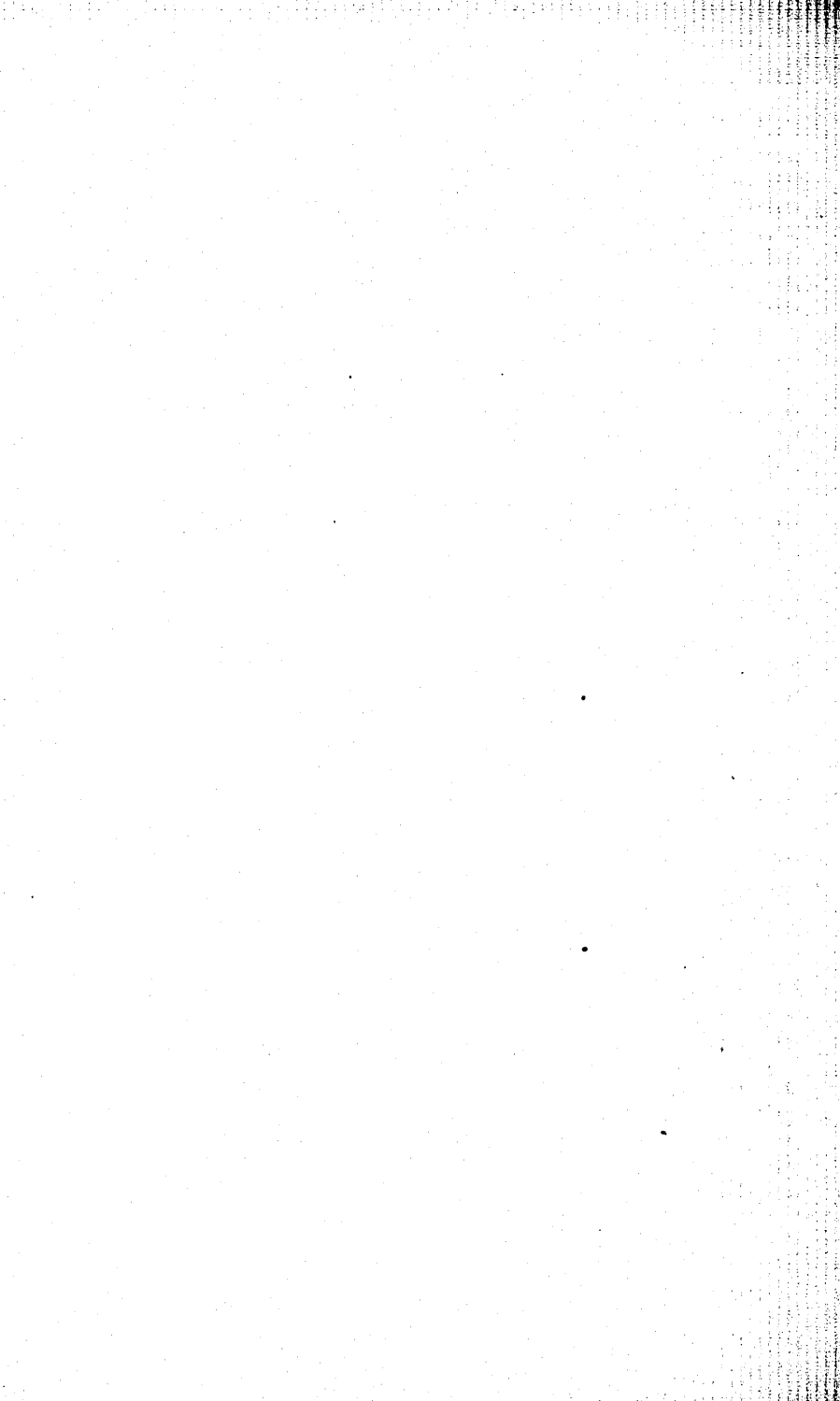
Casualty vote.

20. No sums hereinbefore granted for aid to any breakwater, wharf, or pier, shall be drawn from the treasury, until it shall appear to the satisfaction of the governor in council, that the parties interested in, or applying for, aid to any such work, have subscribed and expended thereon, since the passing of this grant, at least three times the amount so granted, in addition to such grant, so that the whole amount expended on such work shall amount to four times the sum so granted, unless otherwise herein provided, and that the site thereof has been conveyed for the use of the public.

Sums allowed to breakwaters &amp;c.

21. The sum of one pound per day shall be granted and paid to every member of the house of assembly, for his attendance in general assembly for the present session, to be paid on the certificate of the speaker; also, the travelling charges as heretofore—but no member shall receive pay for more than forty-one days attendance.

Members' pay.



**LOCAL ACTS.**



### CHAPTER 34.

## An Act to enable the City of Halifax to borrow funds for building a Market House.

(Passed the 31st day of March, A. D. 1853.)

SECTION.

- 1. Erection of market house authorized—site.
- 2. Loan of £5000 at six per cent. authorized.
- 3. May be obtained at once, or in portions. Tenders for, to be advertized.
- 4. Lenders to receive a certificate for

SECTION.

- every £100. Certificates to be transferable.
- 5. Re-payment.
- 6. Rents and proceeds of market—how applied.
- 7. Re-payment secured.

Be it enacted by the governor, council, and assembly, as follows :

1. The city of Halifax are authorised to erect a city market house, and other buildings and enclosures connected therewith, which may embrace all or any part of a parallelogram, bounded eastwardly by Water street, northwardly by George street, and westwardly by Bedford row, and extending southwardly from George street one hundred and five feet.

Erection of market house authorized—site.

2. The city of Halifax shall have power to borrow on the credit of the city, a sum or sums of money not to exceed in the whole five thousand pounds, at a rate of interest not exceeding six per cent. per annum, to be expended by the city council, or under their directions, in building such market house.

Loan of £5000 at 6 per cent. authorized.

3. The loan may be obtained at once, or in portions, from time to time, as the city council may decide. Tenders for the money required shall be advertised for in two or more of the newspapers published in the city, for one month, and the tender expressing the lowest rate of interest shall be preferred.

May be obtained at once, or in portions.

Tenders for, to be advertized.

4. The lenders shall receive, for every one hundred pounds so lent, a certificate under the city seal, signed by the mayor, and countersigned by the city clerk, drawn in favor of such lenders, their endorsers and assigns, specifying the terms of loan and rate of interest—such interest payable half yearly. These certificates shall be transferable by an endorsement of the holder's signature, in the same manner as promissory notes.

Lenders to receive a certificate for every £100.

Certificate to be transferable.

5. The principal monies of such loan shall be repaid to the lenders or holders within ten years from the date of the loan; but the city may, at its option, pay off such certificates, in whole or in part, at the end of the first five years; and after that period, at any time on six months notice, may pay off the whole or any part thereof.

Re-payment.

6. Until the loan of five thousand pounds is fully paid off, with interest, the rents and proceeds of the city market shall form a separate fund in the hands of the city treasurer, and shall be ap-

Rents and proceeds of market—how applied.

plied exclusively in the reduction and payment of the loan hereby authorised, with interest—such rents and proceeds to be first applied to payment of the interest, and the residue to form a sinking fund to pay off the principal of the loan.

Re-payment secured.

7. The loan hereby authorised, and interest, shall, notwithstanding, be a charge on the funds, revenues, and property of the city generally, until the same is fully satisfied and discharged.

## CHAPTER 35.

An Act to provide for the construction of the Saint Peter's Canal.

[Passed the 4th day of April, A. D. 1853.]

### SECTION.

1. Engineers to survey and report—by whom appointed.
2. Three commissioners may be appointed to cut canal; cost not to exceed £12000.
3. Private lands may be taken—plan to be registered.

### SECTION.

4. Materials may be taken from private lands—compensation for.
5. £3000 per annum, appropriated for carrying on the work.
6. 3 Vic. chapter 35, 14 Vic. chapter 32, 15 Vic. chapter 14, section 4, repealed.

Be it enacted, by the governor, council, and assembly, as follows :

Engineers to survey and report—by whom appointed.

1. The governor, in council, may appoint a competent engineer to survey a line for the construction of a canal to connect the waters of Saint Peter's Bay with the Bras d'Or Lake, in the county of Richmond, and to make a report as to the probable expense thereof.

Three commissioners may be appointed to cut canal; cost not to exceed £12000.

2. The governor, in council, if satisfied by the report of such engineer, that the work can be accomplished for a sum not exceeding twelve thousand pounds, shall appoint commissioners, not to exceed three in number, with full powers to cut such canal on the site selected, and according to the specifications prepared by such engineer.

Private lands may be taken—plan to be registered.

3. Such commissioners may enter upon, and take possession of, any lands required for the construction and working of such canal, and for all necessary purposes connected therewith, and shall lay off the same by metes and bounds, and record a description and plan thereof in the registry of deeds for the county of Richmond, and the same shall operate as a dedication to the public of such lands.

Materials may be taken from private lands—compensation for.

4. The commissioners may enter upon any lands adjoining the line of such canal, and therefrom take timber, stones, earth, or other material required for its formation and completion, paying for the same, where an agreement can be made with the proprietor, and, where it cannot be so made, paying such amount as may be awarded by the sessions of the county wherein the lands lie. In making such valuation, regard shall be had to the increased value conferred on such lands by the making of such canal.

£3000 per annum, appropriated.

5. The governor may draw by warrant on the treasury in favor of such commissioners as the work proceeds, for a sum not to

exceed three thousand pounds, in each of the years following the commencement of such canal, until the whole shall amount to twelve thousand pounds. ated for carrying on the work

6. The act third Victoria, chapter thirty-five, entitled, "an act to incorporate a company, to be called the St. Peter's canal company," and the act fourteenth Victoria, chapter thirty-two, entitled, "an act to amend the act to incorporate the St. Peter's canal company," and also the fourth section of chapter fourteen of the acts of last session, are repealed. 3 Vic. chapter 35; 14 Vic. chapter 32; 15 Vic. chapter 15, section 4, repealed.

## CHAPTER 36.

### An Act respecting Streets and Highways in the City of Halifax.

[Passed 31st day of March, A. D. 1853.]

#### SECTION.

1. Superintendents of streets—when to be appointed. Removable at pleasure—to be sworn—compensation of.
2. Duty of.
3. Ditto.
4. Digging up or opening streets.
5. Quarterly reports of superintendents—to furnish annual estimates.
6. To keep accounts, and records of their proceedings.

#### SECTION.

7. Powers and duties of commissioners of streets conferred on superintendents.
8. Section 127 of act concerning the city of Halifax, repealed.
9. Monies—applicable to construction and repair of streets.
10. Commutations for highway labor—to be paid to city treasurer—penalty for default.

Be it enacted by the governor, council, and assembly, as follows:

1. There shall be chosen, immediately after the passing of this act, and thereafter on the fifteenth day of October in the present and every subsequent year, a superintendent or superintendents of streets, to hold office respectively until a successor or successors shall be appointed, or until removal—to be removable at the pleasure of the city council; such superintendents to be sworn before the mayor to the faithful discharge of duty, and to give such security and receive such compensation as the city council may, from time to time, determine. Superintendents of streets—when to be appointed. Removable at pleasure—to be sworn—compensation of.

2. It shall be the duty of such superintendents, under the direction and control of the city council, to superintend the general state of the streets within the whole city, or such wards or districts as the council may place under the charge of such superintendents, to attend to the laying out, widening, elevation, and repairs of the same, and the making, repairing, and improving of any bridges, drains, sewers, gutters, channels, pavements, and side-walks, within the same, and to make all contracts for the supply of labor and materials therefor, and to give notice to the mayor of the city, or the city marshal, of any nuisance, obstruction, or encroachment thereon. Duty of.



Ditto.

3. The superintendents within their districts, under the direction of the city council, shall have charge of and make all necessary arrangements for cleaning the streets, disposing of manure, and removing house dirt and offal therefrom.

Digging up or opening streets.

4. The superintendents shall inspect carefully all operations connected with digging up or opening streets for the purpose of water or gas pipes being laid or repaired, and the replacing the surface properly: and in all cases when permission is given to open or disturb the surface of the streets, the superintendants shall be responsible in their districts to notify the mayor, if there be any neglect or improper proceedings therein, on the part of companies or others opening such streets.

Quarterly reports of superintendants—to furnish annual estimates.

5. The superintendants shall report quarterly to the city council their expenditures and operations, and shall annually furnish to the council estimates and plans of the work and expenses and of the probable amount required for the same, which may be necessary or desirable for the streets and other services in their charge, in such form and with such details and information as the city council shall from time to time direct.

To keep accounts, ac., records of their proceedings.

6. The superintendants shall keep such accounts and records of their proceedings as shall be ordered by the city council, and shall furnish accounts properly vouched whenever required so to do by the city council.

Powers and duties of commissioners of streets conferred on superintendants.

7. All the powers and duties now held and exercised by commissioners of streets, or which may hereafter by any law be conferred on such commissioners or other like officers in the several towns of this province, shall be held and exercised in the city of Halifax, by such superintendants who shall nevertheless exercise the same subject to any order of the city council.

Section 127 of act concerning the city of Halifax, repealed.

8. Section one hundred and twenty-seven of the first chapter of the act entitled, "an act concerning the city of Halifax" is repealed.

Monies—applicable to construction and repair of streets

9. All monies applicable by law to the construction and repair of streets within the city of Halifax, shall form one fund in the hands of the city treasurer to be used as the city council may direct.

Commutations for highway labor—to be paid to city treasurer—penalty for default.

10. All monies due to the city from persons liable to highway labor as penalties, or payable by them as commutation for such labor, shall be paid by them to the city treasurer within ten days next after the day appointed for the performance of their statute labor; on any delay of such payment ten per cent shall become due in addition.

## CHAPTER 37.

An Act to enable the City of Halifax to borrow Two thousand pounds.

[Passed 31st day of March, A. D. 1853.]

SECTION 1. Rate of interest—time and mode of re-payment.

Be it enacted by the governor, council, and assembly, as follows :

1. The city of Halifax are authorised to borrow two thousand pounds, at interest not to exceed six per cent. per annum, the payment whereof, with interest, shall be provided for by including and adding the amount to assessments on the city as follows:— Seven hundred and fifty pounds and all interest in arrear in the assessment for one thousand eight hundred and fifty-four; a like sum of seven hundred and fifty pounds, and interest in the assessment for one thousand eight hundred and fifty-five, and the balance of five hundred pounds, and interest, in the assessment for one thousand eight hundred and fifty-six.

Rate of interest—time and mode of re-payment.

## CHAPTER 38.

An Act to establish a Steam Ferry across the Gut of Canso.

[Passed the 4th day of April, A. D. 1853.]

SECTION.

1. £250 per annum, for five years, granted for conveyance of mails, &c.
2. Boat to run four times a day.

SECTION.

3. May be used for certain revenue purposes.
4. Grant to aid erection of wharves.
5. Annual accounts to be returned.

Be it enacted by the governor, council, and assembly, as follows :

1. It shall be lawful for the governor in council to issue, by warrant on the treasury, a sum not to exceed two hundred and fifty pounds per annum, for five years, from the commencing of running such boat, in quarterly payments, to such persons as shall engage to run a suitable steam boat across the Gut of Canso, for the conveyance of the mail, passengers, cattle, and merchandize, at rates of fare to be approved by the governor in council.

£250 per annum, for five years, granted for conveyance of mails, &c.

2. Such boat shall cross from shore to shore at least four times in each day throughout the year, except when prevented by ice, in which case, the mails and passengers, cattle and merchandize shall be conveyed over in row boats.

Boat to run four times a day.

3. Should the governor appoint the chief officer in such steam boat to be a collector of colonial revenue or a seizing officer, then he shall possess the power to use such steam boat for the collection

May be used for certain revenue purposes.

of the revenue, or the suppression of illicit trade, charging for such service the usual commission by law allowed to such officers.

4. Whenever it shall be certified to the governor in council, that good and sufficient wharves have been erected on each side of the Gut of Canso for the use of such steam boat, and the easy shipment and landing of passengers, cattle and merchandize, either by voluntary subscription, or by assessment on the adjoining counties of Sydney, Guysboro', Richmond, Victoria, Inverness and Cape Breton; then it shall be lawful for the receiver general to pay in aid of such work, a sum not to exceed the proportion now by law allowed in aid of public wharves and breakwaters.

5. Annual accounts of the receipts and expenditures connected with such steamer, certified under oath of the chief officer of such steam boat shall be returned to the financial secretary's office.

Grant to aid  
erection of  
wharves.

Annual ac-  
counts to be  
returned.

## CHAPTER 39.

An Act to amend the Acts for the Government of Acadia College.

[Passed the 4th day of April, A. D. 1853.]

### SECTION.

1. Scholarships—to be deemed personal estate of founders.
2. How evidenced.
3. Privileges of proprietors of scholarships—liability of.

### SECTION.

4. Privileges of persons contributing less than £100.
5. Professors—appointment and salaries of.
6. 3 Vic. chap. 2, sec. 8, repealed, as regards theological professors.

Be it enacted by the governor, council, and assembly, as follows :

1. Scholarships of the college founded by the payment of one hundred pounds shall be held to form part of the personal estates of their respective founders, agreeably to the laws which regulate property of that nature.

2. Each scholarship shall be evidenced and held by a certificate, signed by the treasurer and two trustees and governors of the college, and sealed with the college seal.

3. The proprietor of a scholarship shall be entitled to all the rights and privileges attached to a scholarship by the bye-laws and ordinances of the trustees and governors of the college, and shall not be liable for any debts of the college.

4. The bye-laws and ordinances of the trustees and governors of the college shall regulate the rights and privileges of persons who may contribute to its funds a less sum than one hundred pounds each.

5. The trustees and governors of the college may appoint professors of theology in its various branches, and may pay their salaries out of the funds of the college.

Scholarships—  
to be deemed  
personal estate  
of founders.

How evidenced.

Privileges of  
proprietors of  
scholarships—  
liability of.

Privileges of  
persons contri-  
buting less than  
£100.

Professors—ap-  
pointment and  
salaries of.

6. The eighth section of the act, 3d Victoria, chapter 2, entitled "an act for incorporating the trustees of the queen's college at Horton" is repealed as far as regards the appointment of theological professors.

3 Vic. chap. 2, sec. 8 repealed, as regards theological professors.

## CHAPTER 40.

An Act to extend the Jurisdiction of the Commissioners of Streets for Truro.

[Passed 31st day of March, A. D. 1853.]

### SECTION. 1. Limits extended.

Be it enacted by the governor, council, and assembly, as follows :

1. The jurisdiction of the commissioners of the streets at Truro, shall be extended from its present west boundary line westwardly, so as to include the road from the Presbyterian meeting house to the board landing; and eastwardly, so as to include William Eaton's lane—the east boundary line to extend northwardly the corner of said lane to the Onslow town line.

Limits extended.

## CHAPTER 41.

An Act to incorporate a Company to construct a Branch Railway to Whitehaven.

[Passed the 4th day of April, A. D. 1853 ]

### SECTION.

1. Operation—to commence by proclamation. Name of Company.
2. Real estate of corporation restricted to tracks, stations, and offices.
3. Capital—shares. Operation—when to commence. Company—formation of.
4. Construction—termini. Company may enter upon private lands for purpose of surveying. Plan to be filed. Proviso.
5. Private lands—purchase of by company. Materials may be taken from. Fruit and ornamental trees excepted.

### SECTION.

6. Railroad to vest in company. Management—servants' salaries. Casting vote of president—quorum.
7. Private lands taken—compensation for—how settled. Proprietors to take shares in payment for.
8. Fares—to be approved by governor in council.
9. Liability of shareholders.
10. Revised statutes, chapter 70—extended to this act.

Whereas the construction of a rail road to Whitehaven from any trunk line that may be constructed from Halifax to the New Brunswick border will greatly tend to improve the eastern counties, and it is desirable that such rail road should be constructed by individual enterprise, and for encouraging individuals to associate themselves for that purpose, with the intention of accomplishing that desirable work ;

Preamble.

Be it enacted by the governor, council, and assembly, as follows :

Operation—to  
commence by  
proclamation.

1. When it shall be made to appear to the satisfaction of the governor and council, that not less than twenty persons have associated themselves for the above object, and have subscribed the amount of stock, and paid the advance thereon hereinafter required; the governor and council shall, by proclamation, declare this act to have come into operation, and thereupon, immediately thereafter, such persons and all such other persons as shall from time to time become proprietors of shares in the corporation hereby established, their successors and assigns shall be, and are hereby incorporated into a company, and declared to be a body corporate by the name of "the White Haven branch rail road company.

Name of com-  
pany.

Real estate of  
corporation re-  
stricted to track  
stations, and  
offices.

2. The corporation shall not at any time purchase, have, hold, or enjoy any other real estate than the track and necessary stations of and for the rail road, or such as may be required for the offices or other necessary places of business of said corporation.

Capital—shares.

Operation—  
when to com-  
mence.

Company—form-  
ation of.

Construction—  
termini.

Company may  
enter upon pri-  
vate lands, for  
purpose of sur-  
veying-

Plan—to be  
filed.

Proviso.

3. The capital or joint stock of the said corporation shall be six hundred thousand pounds, to be divided into thirty thousand shares of twenty pounds each, and when sixty thousand pounds of such stock shall be subscribed for, and one thousand pounds paid into the bank of British North America on account thereof, the corporation shall go into operation, and thereupon, the shareholders shall appoint directors, who shall name one of their members as president, and shall also appoint a treasurer, secretary, and all other necessary officers.

4. The company shall construct a double or single track of rail road from the trunk line through this province to the port of White Haven, county of Guysboro', and they shall have power to make all contracts, and to do all other acts necessary to the accomplishment of the work, and they shall have power and authority to enter upon the lands of all persons by themselves, their engineers, surveyors, and servants, for the purpose of ascertaining the most eligible track, course or route for the rail road, and when the line or track shall have been ascertained and decided upon by the company, a plan thereof shall be made, shewing the exact courses and distances thereof, embracing a uniform width of not more than two hundred and fifty feet, and exhibiting also the necessary stations not to exceed twenty acres each, and upon such plan being filed in the offices of registrars of deeds in the several counties through which the same shall pass; certified under the hand of the president of the board of directors, the land marked and described therein for the track and stations, shall vest in, and become the property of the company, and shall be and continue the property of the company so long as the company shall exist, and the company may enter into the full possession thereof, and construct a double or single track rail road thereon, and hold and enjoy the same, and may erect thereon all necessary buildings, provided that no land marked as a station in the plan shall belong to the company, except such as shall be actually converted into stations.

5. The company, their officers and servants, shall have power to pass and repass, to and from the line or tract and stations, over the land of private persons, on paying for the use thereof, a fair and reasonable compensation, the amount and the price or value of the land so chosen for track and stations, and the fencing of such part thereof as may require to be fenced, if not agreed upon, to be fixed and ascertained by one appraiser chosen by the land owner, and one by the company; and in case of disagreement, such umpire as the appraisers shall choose to join them; and the company, their officers and servants may enter with carts, carriages, horses, and other cattle, upon any lands, and dig up, and convey therefrom, stones, gravel, and other materials, and cut down and carry away trees and other wood growing thereon, except fruit and ornamental trees, for the use of the rail road, on paying the proprietor for the same, as may be agreed upon, or by appraisement before directed.

Private lands—  
purchase of by  
company.

Materials may  
be taken from.  
Fruit and orna-  
mental trees  
excepted.

6. The company shall own the said railroad, and generally shall do all acts, and make all such rules and regulations in respect thereof, and in the construction and management thereof, as may be necessary and expedient, and the company shall have power to appoint, remove, and fix the salaries of all officers, servants and others, to be by them employed in and about the construction and management of the rail road; and in all proceedings of the board, the president shall have the casting vote, but no meeting of the board shall be qualified to do any act, unless at least four directors, besides the president shall be present.

Railroad to vest  
in company.

Management—  
servants' sala-  
ries.

Casting vote of  
president—  
quorum.

7. The owners of the land taken for the track and stations, shall be remunerated for the same, as follows: one appraiser shall be appointed by the company, and one by the owner of the soil; and in case of difference, such third person as they may choose to join them as umpire, and the owner shall be entitled to receive such amount, as the appraisers and umpire, or any two of them shall allow for soil and fencing; and when all the lands are appraised, the amount appraised for soil and fencing in each county, shall be paid by the company, provided the sum appraised be under twenty pounds; but in all cases where the same shall amount to twenty pounds and upwards, the proprietor shall have one share for every twenty pounds, and be bound to accept the same.

Private lands  
taken—com-  
pensation for—  
how settled.

Proprietors to  
take shares in  
payment for.

8. When the rail road is completed, or any part thereof, the same shall be used and enjoyed by the public, at such reasonable rates and fares, as the company shall, or may from time to time, fix and appoint, subject to the approval of the governor in council.

Fares—to be  
approved by  
governor in  
council.

9. The joint stock or property of the company shall alone be responsible for the debts and engagements of such company; and no person or persons who have dealings with the company, shall under any pretence whatever, have recourse against the separate property of any of the individual shareholders, or against their persons, further than may be necessary for the faithful application of the funds of the company, and no shareholder shall be liable

Liability of  
shareholders.

for, or charged with the payment of any debt or demand due from the company, beyond the extent of his share in the capital stock not then paid up.

10. The provisions of chapter 70, of the revised statutes "Of railroads" are extended to this act.

Revised statutes, chapter 70—extended to this act.

**CHAPTER 42.**

**An Act to authorize the erection of a Bridge over Milford Haven River, and to provide for the same.**

[Passed 4th day of April, A. D. 1853.]

**SECTION.**

1. Drawbridge may be erected—site to be chosen by sessions.
2. Loan not to exceed £600—security—re-payment of.

**SECTION.**

3. To be expended by commissioner appointed by governor in council.

**Preamble.**

Whereas it is desirable that a bridge be erected over Milford Haven river, in the county of Guysborough, and it is expedient to borrow six hundred pounds, on the credit of that county, which sum, in addition to the sum of two hundred pounds, to be appropriated therefor, during the present session, will be required for the construction of such bridge.

Be it enacted by the governor, council, and assembly, as follows :

Drawbridge may be erected—site to be chosen by sessions.

1. A bridge may be erected over Milford Haven river, in the county of Guysborough, at such part of the river as the sessions in that county, held at Guysborough, may select as the most suitable site therefor; provided such bridge have a sufficient draw placed therein, so as not to impede the navigation of such river.

Loan not to exceed £600—security—re-payment of.

2. The members for the county of Guysborough, may borrow on the pledge of the road monies of the county, and the security of this act, a sum not to exceed six hundred pounds, to be expended in the erection of such bridge; such loan to be re-paid by three annual instalments of two hundred pounds, out of the road grants for the years one thousand eight hundred and fifty-four, one thousand eight hundred and fifty-five, and one thousand eight hundred and fifty-six, with interest, at the rate of six per cent. until the whole sum borrowed has been re-paid.

To be expended by commissioner appointed by governor in council.

3. The money borrowed under this act shall be expended by a commissioner, or commissoners, to be appointed by the governor in council.

## CHAPTER 43.

### An Act for establishing a Public Market Place in Digby.

(Passed the 31st day of March, A. D. 1853.)

SECTION 1. Land to be used as a market place, and to vest in supervisors of public grounds.

Whereas by letters patent, dated the thirty-first day of January, one thousand seven hundred and ninety-seven, his late majesty king George the third, did grant to Isaac Bonnell, Henry Rutherford, and Jonathan Towler, and their heirs, a certain small triangular piece of land lying in front of the town of Digby, containing fourteen hundredth parts of an acre of land, in special trust for the use and benefit of the inhabitants of the town of Digby, as a common :

And whereas the persons named in such trust have become deceased, and it is necessary that such piece of land should be made available, for the use and benefit of the inhabitants of the town of Digby :

Be it enacted by the governor, council, and assembly, as follows :

1. From and after the passing of this act, the legal title in such piece of land shall be vested in the supervisors of public grounds for the township of Digby, for the use and benefit of the inhabitants of the town of Digby, generally, as a market place, and not for individual or exclusive use, for any purposes whatsoever.

Land to be used as a market place, and to vest in supervisors of public grounds.

## CHAPTER 44.

### An Act to extend the provisions of an Act to provide for the removal of obstructions from the Liverpool River.

(Passed the 31st day of March, A. D. 1853.)

SECTION 1. Limits of commissioners extended. Authorised to borrow £200.

Be it enacted by the governor, council, and assembly, as follows :

1. The commissioners appointed under the act thirteenth Vic. chapter thirty-seven, are authorized to extend their operations beyond Indian Gardens to Fairy Lake, on the Liverpool River, and all the power and authority conferred on the commissioners by such act, shall be exercised by such commissioners within such extended limits; and the commissioners are authorized to borrow a further sum of two hundred pounds, under the restrictions of such act, for the purpose of removing obstructions between Indian Gardens and Fairy Lake, on such river.

Limits of commissioners extended.

Authorised to borrow £200.



## CHAPTER 45.

## An Act to define the limits of the Town of Baddeck.

[Passed the 31st day of March, A. D. 1853.]

## SECTION 1. Limits defined.

Limits defined.

Be it enacted by the governor, council, and assembly, as follows:

1. The boundaries of the town of Baddeck, in the county of Victoria, are hereby defined and established as follows, namely: to commence on the shore at Baddeck bay, at the eastern line of Hector McLean's lot; thence to extend along the shore, westwardly, to the western line of James Sparling's lot; thence to follow the last mentioned line to the rear line of the front lots; thence along such rear line to the eastern line of Hector McLean's farm; thence along the last mentioned line to the place of commencement.

*med by Act of 1854 Chap 57*

## CHAPTER 46.

## An Act relating to the Onslow Burial Ground.

(Passed the 31st day of March, A. D. 1853.)

## SECTION.

1. Trustees, appointment of, vacancies, funds. To fence burial ground and make a road round it, &c.
2. Trespasses.
3. Ground open to all denominations of persons.
4. Interest of the proprietors of dyke lands transferred from old roads to new road.

## SECTION.

5. Funds voted for improvement not to exceed £50 at one time. Notice to be given of amount intended to be applied for.
6. Provisions of this act not to affect title of any person to land comprised in burial ground.

Preamble.

Whereas the hill or island in the dyke or marsh at Onslow, known as the burying island, has for many years been used and occupied as a public burial ground for the inhabitants of the township of Onslow; and whereas there are no persons properly authorised to take charge of such burial ground; and in consequence thereof, it is not properly fenced or enclosed, and the graves and tombstones are trampled upon and injured by cattle running at large over them; and it is desirable that trustees should be appointed to take charge thereof; and whereas the proprietors of the dyke or marsh in the neighbourhood of such island, have been accustomed to use certain roads crossing such island, which roads would be equally convenient if made round the edge of the same.

Be it therefore enacted by the governor, council, and assembly, as follows:

1. The inhabitants of the township of Onslow, at the first or any subsequent public meeting held agreeably to law after the passing of this act, for the purpose of voting money for the support of the poor, may appoint three freeholders of the township to be trustees for the burial ground, whose name of office shall be "the trustees of the Onslow burial ground," and upon the death, removal or refusal to act of any one or more of such trustees, from time to time, at any such further meeting may appoint some other freeholder of the township to supply every such vacancy, and such appointment to renew whenever necessary, so that the trustees may always continue to be three in number; which trustees are hereby authorised and empowered to take charge and possession of the burial ground, and to fence and enclose the same, to make a road round the edge of the same, so as to connect the roads on the opposite sides of the same without crossing the island, and to take such other measures as they think proper for the improvement, ornamenting or protection thereof.

Trustees, appointment of, burial ground to vest in.

To fence burial ground and make a road round it, &c.

2. The trustees, in their name of office, shall have full power to commence, sue and prosecute any actions for any trespasses or damage committed or done in or upon the burial ground or any part thereof, by any person whomsoever.

Trespasses on.

3. The burial ground shall be open and free for the interment of the dead of all classes and denominations of persons, and according to such rites and ceremonies as the friends of the deceased may think proper, subject to the directions of the trustees.

Ground open to all denominations of persons.

4. So soon as a sufficient road shall be made round the edge of the island, so as to accommodate the proprietors of the marsh, such proprietors shall thereafter have the same estate and interest in such road as they now have in the roads across such island, and shall hold the same in lieu thereof, and shall thereafter cease to have any right or interest as proprietors in such last mentioned roads.

Interest of the proprietors of dyke lands transferred from old roads to new road.

5. The inhabitants of the township of Onslow, at their meetings to be held as herein directed, in addition to the money required for the support of the poor, are authorised to vote such sum, not exceeding fifty pounds at any one time, as may have been necessarily expended by the trustees in fencing, ornamenting, and the due and proper keeping of the burial ground and other the premises; provided due notice of the amount intended to be applied for at such meeting for the above purposes be given at least twenty days before such meeting, by written notice, put up in at least four of the most public places in the township; which money so voted for such purposes, shall be added to, and raised and collected by the same means as other monies which shall or may be voted at the same meeting.

Funds voted for improvement not to exceed £50 at one time.

Notice to be given of amount intended to be applied for.

6. Nothing in this act contained, shall affect, or be construed to affect the right or title of any person or persons whomsoever to the land comprised in such burial ground or any part thereof.

Provisions of this act not to affect title of any person to land comprised in burial ground.

## CHAPTER 47.

## An Act to authorise the appointment of Trustees for the Public Burial Ground at Tusket.

(Passed the 31st day of March, A. D. 1853.)

## SECTION.

1. Trustees—appointment of—burial ground to vest in.
2. Burial ground to be open to persons of all denominations.

## SECTION.

3. Regulations.
4. Trespasses on.

## Preamble.

Whereas in the grant of Tusket village, passed in the year one thousand eight hundred and nine, a certain lot of land, included within the limits of such grant, was set apart and designated as a burial ground; but for want of competent supervision, encroachments have been made on such burial ground.

Be it enacted by the governor, council, and assembly, as follows :

1. It shall be lawful for the sessions to appoint three persons to be trustees of the public burial ground at Tusket; and upon their appointment, the burial ground so reserved in such grant, shall vest in such trustees, who shall hold the same for the purposes designated in such grant.

2. The burial ground shall be open and free for the interment of the dead of all classes and denominations of persons, and according to such rites and ceremonies as the friends of the deceased may think proper, subject to the directions of such trustees.

3. The trustees shall have full power and authority to make and amend regulations for the improvement, protection, and management of the burial ground, which regulations and any amendments thereof shall be submitted to the sessions, and when approved of, shall be valid and effectual for the purposes intended.

4. The trustees shall have power to prosecute for all trespasses or damage committed or done in or upon such burial ground, or any part thereof, by any persons whomsoever.

## CHAPTER 48.

## An Act relative to the Representation for the Township of Sydney.

(Passed the 31st day of March, A. D. 1853.)

SECTION 1. Revised statutes, chap. 3, sect. 2, amended.

Be it enacted by the governor, council, and assembly, as follows :

1. The second section of chapter three of the revised statutes "Of the representation in general assembly" is amended by

adding at the end of such section, the following words, "and the township of Sydney as including the township of North Sydney."

## CHAPTER 49. *Amendedly Acts of 1854 Ch. 50*

An Act to provide for the erection of a Bridge over the West River of Pictou.

(Passed the 4th day of April, A. D. 1853.)

SECTION.

1. Loan not to exceed £350. Security—  
repayment.

SECTION.

2. To be expended by Commissioners appointed by Governor, in Council.

Whereas it is expedient to borrow, on the credit of the county Preamble. of Pictou, a sum of money for the construction of a bridge over the West river, at or near Allan Cameron's:

Be it enacted by the governor, council, and assembly, as follows:

1. The members of the county and township of Pictou, may borrow on the pledge of the road monies of the county and the security of this act, a sum not to exceed three hundred and fifty pounds to be expended in the erection of a bridge over the West river, such loan to be repaid by annual instalments of one hundred pounds for the three first years, and fifty pounds in the fourth year, with interest at the rate of six per cent. until the whole sum borrowed has been repaid.

2. The money borrowed under this act, shall be expended by a commissioner or commissioners to be appointed by the governor, in council.

## CHAPTER 50.

An Act relating to the Parish of St. George in the Township of Halifax.

(Passed the 31st day of March, A. D. 1853.)

SECTION.

1. 8 George 4, chap. 30, sect. 6, repealed.

SECTION.

2. Rector to be appointed by parishioners.

Be it enacted by the governor, council, and assembly, as follows:

1. The sixth section of the act eighth, George the Fourth, chapter thirty, entitled an act for dividing the parish of St. Paul, in the township of Halifax, is hereby repealed.

2. Hereafter the parishioners of the parish of St. George shall have the appointment of their rector in the same manner, and under the like restrictions as are mentioned in chapter fifty of the revised statutes, entitled "Of the church of England."

**CHAPTER 51.**

An Act relating to the holding of the Sessions for the County of Victoria.

(Passed the 31st day of March, A. D. 1853.)

**SECTION 1. Time for holding sessions altered.**

Be it enacted by the governor, council, and assembly, as follows :

1. Instead of the time, now by law appointed for holding the general sessions of the peace for the county of Victoria, two such sessions shall be held for such county in each year, namely : on the third Tuesday of March, and third Tuesday of July, subject to all the rules and conditions prescribed by chapter forty-four of the revised statutes.

Time for holding sessions altered.

**CHAPTER 52.**

An Act to revive and continue an Act relative to certain Streets in the Town of Guysborough.

(Passed the 31st day of March, A. D. 1853.)

**SECTION 1. Act revived and continued for three years.**

Be it enacted by the governor, council, and assembly, as follows :

1. The act passed in the seventh year of her present majesty's reign, entitled, an act relative to certain streets in the town of Guysborough, is hereby revived and continued in force for three years, and thence to the end of the then next session of the general assembly.

Act revived and continued for three years.

**CHAPTER 53.**

An Act to authorize a Loan for the erection of a new Jail, in the County of Richmond.

(Passed the 31st day of March, A. D. 1853.)

**SECTION.**

1. Commissioners authorised to borrow funds not to exceed £300 at 6 per cent.

**SECTION.**

2. Repayment.

3. Commissioners authorised to give bonds.

Be it enacted by the governor, council, and assembly, as follows :

1. John R. Smith, Simon Donovan, Thomas LeNoir, Thomas H. Fuller and William B. Cutler, commissioners appointed by the

sessions for the county of Richmond, are hereby authorised to borrow, on the credit of the county, such sum of money as may be required to provide a sufficient jail for the county: provided the amount raised under this act shall not exceed three hundred pounds, with interest, at a rate not exceeding six per cent. Commissioners authorised to borrow funds not to exceed £300, at 6 per cent.

2. The county of Richmond shall be liable to repay and make good to the lenders of the fund, all monies borrowed under this act, with interest; and the real and personal estate in the county shall be liable to be assessed for such purpose by the sessions. Repayment.

3. The commissioners above named are authorised to enter into such bonds as may be required by parties advancing money under this act, but they shall only be liable in their official capacities as such commissioners. Commissioners authorised to give bonds.

## CHAPTER 54.

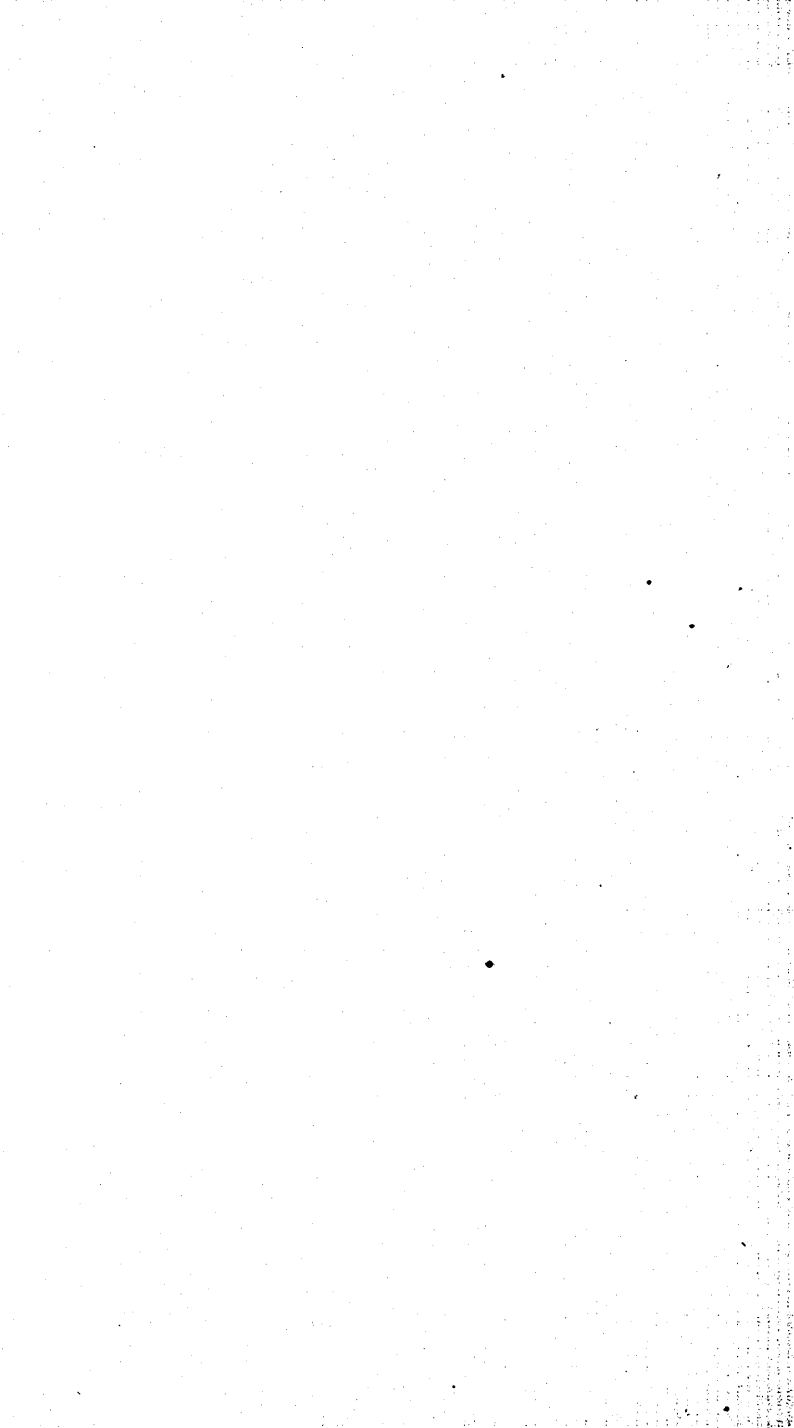
### An Act relating to certain Bridges in the County of Cape Breton.

[Passed the 31st day of March, A. D. 1853.]

SECTION 1. Alice bridge, Burke's ferry bridge, and Marion bridge, placed under control of Sessions.

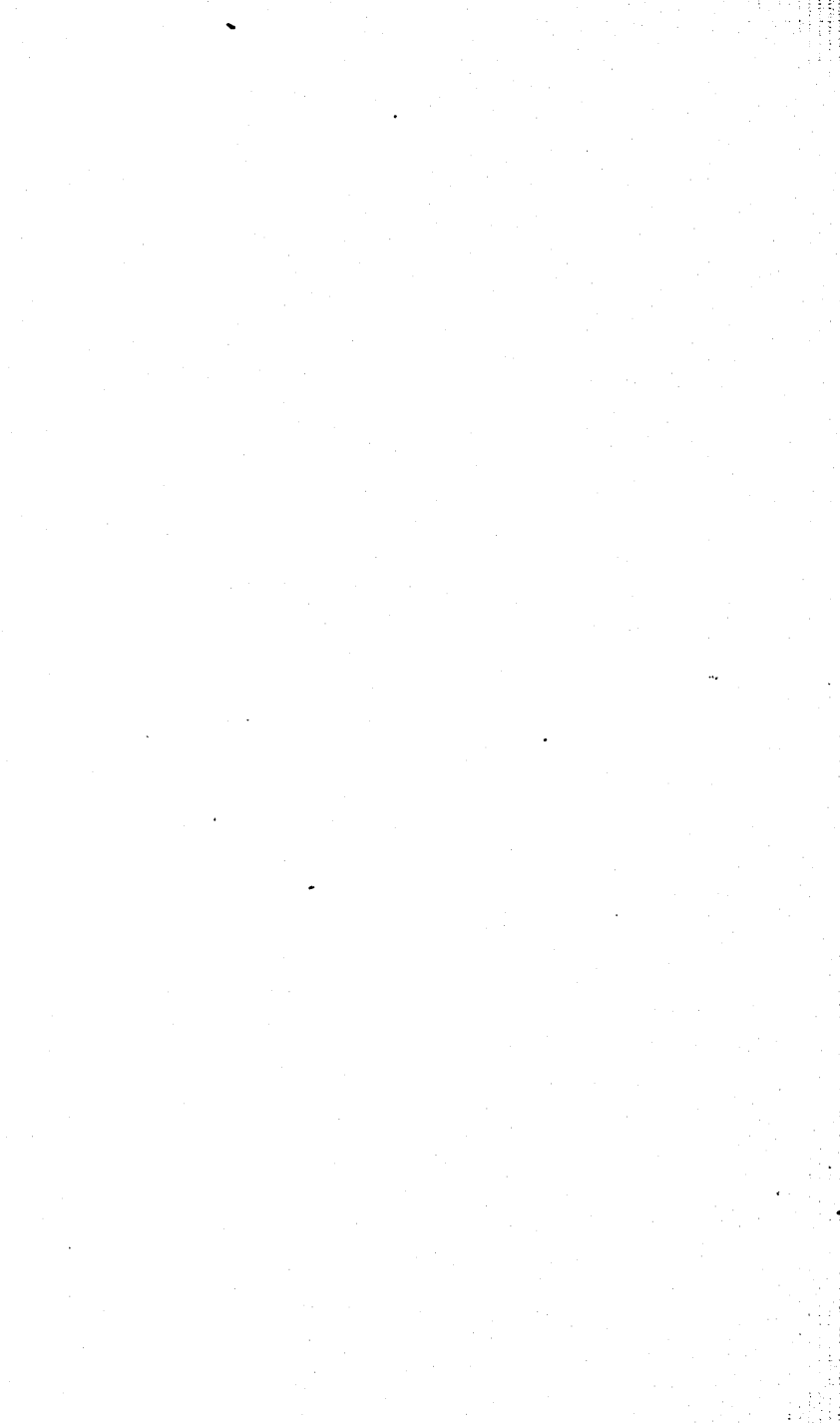
Be it enacted by the governor, council, and assembly, as follows:

1. The following draw bridges in the county of Cape Breton, namely: Alice bridge over the little Bras d'Or, Burke's ferry bridge, over Mire river, and Marion bridge, over Mire river, are placed hereby under the control of the sessions, who may make orders for the preservation and proper keeping thereof, and may appoint persons to superintend the same, who shall in such case be sworn to the faithful discharge of their duties before a justice of the peace; and the sessions may affix penalties for the breach of any such orders not exceeding in any one case one hundred pounds, and may direct the mode of recovery and application of such penalties; and such bridges shall be deemed to have been built under the authority of acts of the legislature, and the erection thereof respectively, is hereby legalised. Alice bridge, Burke's ferry bridge and Marion bridge, placed under control of sessions.



PRIVATE ACTS.





## CHAPTER 55. *Amended by Act of 1855*

### An Act to Incorporate the Inland Navigation Company.

(Passed the 4th day of April, A. D. 1853.)

## SECTION.

1. Name of members of corporation.
2. Real estate of company limited.
3. Capital stock—shares.
4. Subscription book to be kept open. Shares—how many may be taken by one person.
5. Company when to go into operation.
6. Empowered to cut canal, &c.
7. Towing path.
8. To be open to the public—tolls, how regulated.
9. When canal crossed by public highways company to erect bridge.
10. When private land required for purposes of company.

## SECTION.

11. Materials may be taken from private lands.
12. When wears or embankments made across river, company to provide fish ladders.
13. Dividends, payment of. Casualty funds when to be established.
14. Liability of shareholders.
15. Canal, &c., may be taken by government after 20 years.
16. Half yearly accounts to be transmitted to provincial secretary. Auditors may be appointed.
17. Conveyance of mails and troops to be without charge.

Be it enacted by the governor, council, and assembly, as follows :

1. James F. Avery, Andrew McKinlay, William Stairs, William B. Fairbanks, William Lawson, David Allison, Lawrence Hartshorne, Thomas Bolton, James Thompson, Charles W. Fairbanks, George A. S. Crichton, and all other persons who shall become proprietors in the company, hereby established, their successors and assigns, shall be a body corporate, by the name of "the inland navigation company."

Name of members of corporation.

2. The company may purchase and hold real estate, and sell or let the same; the real estate to be held at any one time not to exceed in value the sum of ten thousand pounds.

Real estate of company limited.

3. The capital stock of the company shall be thirty thousand pounds, to be divided into one thousand and five hundred shares of twenty pounds each.

Capital stock—shares.

4. Any of the persons named herein, may, immediately after the passing hereof, open a subscription book for shares, and give public notice of the opening thereof for at least thirty days in two or more of the newspapers published in Halifax; and no person shall be allowed to take more than twenty-five shares, until the expiration of such thirty days, when, if any of the shares shall then remain unsubscribed for, any person may subscribe therefor, notwithstanding such person may have before taken twenty-five shares.

Subscription book to be kept open.

Shares—how many may be taken by one person.

5. As soon as the sum of ten thousand pounds of the stock shall be subscribed for, and one thousand pounds paid in on account thereof, the shareholders may hold their first meeting, and thereat appoint their officers, namely: a president, two directors, an

Company when to go into operation.

engineer in chief, and such subordinate officers as they may deem necessary.

Empowered to  
cut canal, &c.

6. When the company shall be invested by the provincial government, in consideration of such sum of money as may be mutually agreed upon, not to exceed five thousand pounds, with the land, and land covered with water, locks, and other works and appurtenances, formerly belonging to the Shubenacadie canal company, or any part thereof that may be required by the company and agreed to by the government, it shall be lawful for the company to open and cut a sufficient canal or water communication from the waters of the harbor of Halifax through the Dartmouth lakes, so called, the lakes and channels or course of the river Shubenacadie, or along the sides or banks of such lakes and river to such part of the river between its place of discharge in the basin of Minas and the Great lake, and in so doing, to use, deepen, contract or widen, or otherwise alter the channel formerly cut and opened by the Shubenacadie canal company, as shall be proper for making a continuous navigable channel, or canal, for the passage of boats or vessels to and from the basin of Minas and the harbor of Halifax, respectively, and for such purpose to dig, excavate and clear such locks, pits, chambers or basins, and make, build or renew, such locks, sluices, weirs, dams or embankments, in, over, across or upon, the course of such river, or along the sides thereof, or at or near the several lakes or streams connected therewith, as may be necessary for effecting such inland water communication, and at all such parts of such river, lakes or streams, and in such courses and directions, from one part to another of the same as may be deemed proper, and to build any slips or lines of railway which may be necessary in the course of such inland water communication, and to use the channels and waters of such rivers, lakes, and streams, in every way necessary for constructing such inland water communication, and for rendering and keeping the same at all times navigable and in operation.

Towing paths.

7. The company shall have power to make all necessary towing paths or roads along the shores, banks, or sides of the inland water communication, for the tracking or towing boats or vessels along the line thereof.

To be open to  
the public—  
tolls, how regu-  
lated.

8. The inland water communication and towing paths shall, at all convenient times after the construction thereof, be kept open for the use of the public, their boats, vessels, goods, horses, and cattle, upon the payment of a certain rate of toll money, to be regulated by the company, and approved of by the governor, in council, and revised every five years.

When canal  
crossed by pub-  
lic highways  
company to  
erect bridge.

9. Whenever the line of such inland water communication shall be crossed by any public highway now existing, or hereafter to be by law established, the company, at its own cost, shall be obliged to erect a convenient and substantial bridge for the use of such highway, to be open to the public at all times.

10. Whenever it shall be necessary in the construction of such

inland water communication, that the company should be invested with any lands in the line thereof, or contiguous thereto, and no agreement can be made for the purchase thereof, it shall be lawful for the president and directors to apply, by petition, either in term time or vacation, to any two of the judges of the supreme court, setting forth the nature and situation of the lands required, the names of the owners thereof, and praying the conveyance thereof to the company, —whereupon such judges shall appoint a time and place for considering such petition, and shall direct a proper notice, in writing, to be served on the owners of the lands, if in the province, and if absent, to be published for the period of one month, in at least two of the Halifax newspapers, requiring them to attend, either in person or by their agent or attorney, at such time and place; and in case such owners shall attend, the judges shall require the president and directors to nominate one appraiser, and such owners two appraisers; and the judges shall nominate two appraisers; but in case such owners do not attend, the judges shall, on proof of such service, or publication of such notice, nominate four appraisers, and shall by an order, in writing, direct the said five appraisers to value the lands so required; and the appraisers, having first subscribed an affidavit, in writing, to be sworn to before a justice of the peace, to be annexed to such order, to the effect that they will faithfully make such appraisalment, shall, with all convenient speed, proceed to and appraise such lands, and shall make such appraisalment in writing, and return it with such order and affidavit to the two judges, who, if they approve thereof, shall confirm the same; and the company, upon paying or tendering the amount of such appraised value, and the expenses of the owners in such appraisalment, and registering such order, affidavit, appraisalment, and confirmation, in the office of the registrar of deeds, in the county where such lands lie, who is hereby required to register the same, shall be considered the owners of such lands.

When private lands required for purposes of company.

11. The company may, from time to time, enter upon any lands not under cultivation, and there cut down any trees, prepare any timber, and quarry and dig any rock or other materials there found, and work, prepare, and carry away the same for the use of such inland water communication; and if the parties having the property in such lands, or materials, shall refuse to agree with the company therefor, and for any damages occasioned thereby, or shall refuse such reasonable compensation as may be tendered therefor, the same shall be settled by arbitration, under chapter eighty-seven of the revised statutes, but the company shall not take or use any such materials as may have been previously wrought or prepared, without the consent of the parties entitled thereto.

Materials may be taken from private lands.

12. In case any wear or embankment shall be made across the present course of the river Shubenacadie below the Great lake, the company shall make and maintain therein a sufficient fish ladder or waste gate, with proper grates and valves, for allowing at all proper seasons the passage of fish up and down such river, the company in respect of making and maintaining such fish ladder or

When wears or embankments made across river, company to provide fish ladders.

waste gate, to be subject to the rules, fines and forfeitures, contained and imposed in and by chapter 95 of the revised statutes, "Of river fisheries," and all acts in amendment thereof.

13. The company shall not divide over twelve per cent. on the paid up capital thereof, after the payment of the current expences, but may put the surplus receipts over and above twelve per cent. into a casualty fund until such fund amounts to a sum equal to one fourth of the capital stock of the company, and which may be vested in such stock or securities as the company may think fit, and then the surplus earnings of the company, over and above twelve per cent. may be used in the repairing, improving, or extension of the works of such inland water communication.

14. No shareholder shall be liable on account of the debts of the company for a greater amount than double the amount of the stock held by him, deducting therefrom the amount paid to the company on account of such stock, unless he shall have rendered himself liable therefor by becoming security for the debts of the company.

15. The legislature may, at its option, at any time after twenty years from the passing of this act, take such inland water communication, with all the works and appurtenances thereof, and keep the same in operation for the benefit and under the control of the government, on paying to the company a sum equal to twenty years purchase of the annual profits divisible upon the subscribed and paid up capital stock of the company, provided such average rate of profits shall not be less than eight per cent.

16. Full and true accounts shall at all times be kept by the directors of the company of all sums of money received and paid on account of such inland water communication; and the company shall once in every half year cause a half yearly account in abstract to be prepared, shewing the total receipt and expenditure on account of the said inland water communication for the half year ending the thirtieth day of June, and the thirty-first day of December respectively, under distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified under the hands of two or more of the directors of the company, and shall send a copy of such account to the provincial secretary, on or before the last days of August and February respectively; and it shall be lawful for the governor, in council, if they shall think fit, at all times, to appoint any proper person or persons to inspect the accounts and books of the company; and it shall be lawful for any person so authorised, at all reasonable times, upon producing his authority, to examine the books, accounts, vouchers, and other documents of the company, at its principal office or place of business, and to take copies or extracts therefrom.

17. No tolls shall be charged for the conveyance of her majesty's mails or of troops, or of troops and munitions of war, over the inland water communication established by this act.

Dividends—  
payment of.

Casualty fund  
when to be  
established.

Liability of  
shareholders.

Canal, &c., may  
be taken by go-  
vernment after  
20 years.

Half yearly ac-  
counts to be  
transmitted to  
provincial se-  
cretary.

Auditors may  
be appointed.

Conveyance of  
mails and  
troops to be  
without charge.

## CHAPTER 56.

## An Act to incorporate the Acadia Free Stone Quarrying and Manufacturing Company.

(Passed the 31st day of March, A. D. 1853.)

## SECTION.

1. Names of members.
2. Capital,—shares. Real estate limited. Power to quarry, manufacture, &c., conferred.
3. Bye-laws, &c., to be registered. Operation.

## SECTION.

4. Tunnel may be cut.
5. Liability of shareholders.
6. Rights of her majesty, private individuals, &c., not affected.

Be it enacted by the governor, council and assembly, as follows :

1. Alexander P. Ross, Daniel Dickson, Henry Coggill, Arthur Leang, William J. Emmett, and such other persons as are now or shall become shareholders in the corporation hereby established, their successors and assigns, are created a body corporate, by the name of "the Acadia free stone quarrying and manufacturing company," for the purpose of quarrying, manufacturing, dressing, exporting, and selling stone, for building and other uses. Names of members.
2. The capital stock of the company shall be seventy-five thousand pounds, to be divided into fifteen thousand shares of five pounds each; and the company may hold real estate and quarrying rights, in any part of the province, to the value in the whole of twenty thousand pounds, with full power to quarry, manufacture, export, and sell, all stone belonging to such corporation, either in this province or elsewhere, as the corporation may think fit. Capital,—shares,  
Real estate limited.
3. The bye-laws and list of shareholders shall annually be registered in the registry of deeds for the county of Pictou, and the company shall not go into operation until three thousand pounds are actually paid in on account of such company. Power to quarry, manufacture, &c., conferred.  
Bye-laws, &c., to be registered.  
Operation.
4. The company shall have authority to make a tunnel under the highway for the conveyance of the property of the company, and the passage of their carriages and workmen, between the quarries and shipping places; provided that the free use of such highway shall not be interrupted at any time, and that the highway shall be perfectly secured by arches, or other substantial work, to the satisfaction of the sessions. Tunnel may be cut.
5. No member of the corporation shall be liable, in his person or separate estate, for the debts of the company, for a greater amount in the whole than the amount of the stock held by him. Liability of shareholders.
6. Nothing herein contained shall be construed to interfere with, alter or affect, the rights of her majesty, or any body corporate, or private individuals. Rights of her majesty, private individuals, not affected.

## CHAPTER 57.

### An Act to incorporate the Shareholders of the Town Hall, Guysborough.

(Passed the 31st day of March, A. D. 1853.)

## SECTION.

1. Names of members.
2. Management—committee of, how chosen.
3. Dividends—payment of.
4. Assessment for repairs or improvements authorised.

## SECTION.

5. Voting—how regulated.
6. Monies due by shareholders to be paid to committee.
7. Committee—duration of office.
8. Rights of her majesty, private individuals, &c., not affected.

## Preamble.

Whereas John Jost, Jairus Hart, Styles Hart, and others, did, some years since, join themselves into a company, and purchase the old court house in the town of Guysborough, which they removed into a part of a lot then vacant in the said town, for the purpose of making a hall, to be used or rented for certain purposes :

And whereas to prevent any difficulty hereafter arising in reference to the property of said hall or its management, it is desirable to have the owners thereof incorporated :

Be it enacted, by the governor, council and assembly, as follows :

## Names of members.

1. John Jost, Jairus Hart, Styles Hart, and such other persons as now are or shall hereafter become proprietors of shares in the corporation hereby established, their successors and assigns, are hereby created a body corporate, by the name of "the Guysborough town hall company."

## Management—committee of, how chosen.

2. The business of the corporation shall be conducted by a committee of three of its members, to be chosen at the annual meeting to be held at Guysborough, on the second Tuesday of December in each year ; and it shall be competent for a majority of the shareholders present to transact the business at such annual meeting.

## Dividends—payment of.

3. The committee shall at the end of their respective terms of office, pay over to the shareholders their respective dividend of the monies received for rent or otherwise, after deducting and paying insurance, repairs, and other necessary expences, and five per cent. on all monies received as their commissions.

## Assessment for repairs or improvements authorised

4. The trustees may, upon the recommendation of a majority of all the shareholders at any annual meeting, or at a special meeting to be called for that purpose, after due notice of at least ten days being given, assess the different proprietors for all such sums as may be necessary for the enclosing, ornamenting, and due keeping in order, or for rebuilding such property, not to exceed the sum of fifty pounds in the whole in any one year, or may sell and dispose of the same, and thereby dissolve such corporation.

5. The holder of one share shall be entitled to one vote; and the holder of four or more shares shall be entitled to two votes, and no more.

Voting, how regulated.

6. Each shareholder shall pay to the committee all monies that he may hereafter owe to the corporation.

Monies due by shareholders to be paid to committee.

7. The committee now appointed shall remain in office until the next annual meeting.

Committee—duration of office.

8. Nothing herein contained shall be construed to interfere with, alter or affect the rights of her majesty, or any body corporate or private individual.

Rights of her majesty, private individuals, &c., not affected.

## CHAPTER 58.

### An Act to Incorporate the Trustees of Saint Andrew's Church, in Halifax.

[Passed the 31st day of March, A. D. 1853.]

#### SECTION.

1. Names of present trustees—property to vest in.
2. Elections of trustees. Duration of office of present trustees.
3. Annual meeting—business of.
4. Rules and regulations confirmed.
5. Alteration or revocation of.
6. Real estate to vest in trustees—description of.

#### SECTION.

7. Pew rents and other monies due trustees, how recoverable.
8. Leasing, mortgaging, &c., real estate.
9. Notice of.
10. Leases—term of limited.
11. Rights of her majesty, individuals, &c., not affected.

Be it enacted by the governor, council, and assembly, as follows :

1. The present trustees of Saint Andrew's Church, namely—  
the Honorable Alexander Keith, Alexander McLeod, George Little, Thomas Clouston, and David Calder, and their successors in office, to be elected as hereinafter mentioned, are hereby declared a body corporate, by the name of "the trustees of Saint Andrew's church, in Halifax," and shall have full power to purchase, hold, and enjoy, for the use and benefit of the church, as well goods as lands, and to improve and use the same, according to their best discretion, and the true intent and meaning of the donors by whom the same shall have been or may hereafter be given, devised, or bequeathed, to the use and benefit of such church.

Names of present trustees—property to vest in.

2. Annually, on the first Monday in July, at a general meeting of the congregation, five persons, being registered pew-holders in such church, and respectively holding, at the least, one half of a pew therein, shall be elected trustees, in the same manner as is prescribed by the regulations now or hereinafter to be in force for the government of the congregation, with respect to the election of such trustees; provided the number of trustees to be so elected shall always consist of five persons, and also that the present trustees

Election of trustees.



Duration of office of present trustees.

Annual meeting—business of.

shall remain in office until the first Monday in July, in the year one thousand eight hundred and fifty-four.

3. Annually, at such general meeting, it shall be lawful for the congregation to make, alter, revoke, and make anew, such rules or regulations for the calling and holding of meetings, the defining qualifications of voters, and the conduct of business at such meetings, the appointment of officers, the sale and letting of pews, the recovery and application of pew rents, and other funds of the church; the leasing, mortgaging, and disposal of the goods and lands of the congregation, which may be held by the trustees, for the use and benefit of the church, the call, selecting and supporting of the minister of such church, the regulating the contract with such minister, and the annulling thereof, and dissolving the connection between the minister and congregation, and generally for the order, care, and conduct of the congregation, its affairs and business, as to the congregation may seem meet.

Rules and regulations confirmed.

4. Until the same shall be altered, revoked, or made anew, in such manner as is therein directed, the rules and regulations passed at a meeting of the congregation, held on the first day of February, in the year one thousand eight hundred and fifty three, and signed by the trustees hereinbefore named, and by a large number of the pew-holders in such church, shall be the rules and regulations of such congregation.

Alteration or revocation of.

5. Whenever any alteration or revocation of a rule, or any new rule shall be proposed, or intended to be offered, for the consideration of the congregation at its annual meeting, then, in every such case, in addition to the notice of such meeting, directed to be given by such rules, a printed notice of the purport and substance of the proposed alteration or revocation of such existing rule, or of the proposed new rule, shall be placed, previous to the commencement of morning service on the Sunday immediately preceding such meeting; in every pew in the church; and a declaration to be entered on the minutes of such meeting, of such printed notices having been so placed, shall be held to be conclusive evidence of the fact, for all purposes whatsoever.

Real estate to; vest in trustees—description of.

6. All those lots or parcels of land whereon Saint Andrew's church is now erected, as the same are now held, possessed, and used, with such church, situate in Galland's division, in the city of Halifax, letter A, number eight, fronting westerly on Barrington street, and there measuring forty feet, and measuring from Barrington street easterly, and bounded northerly by Prince street, sixty feet, thence running southerly from Prince street forty feet, and thence westerly sixty feet, or until it comes to Barrington street aforesaid; and also all that certain corner lot on the north-east of lot number seven, letter A, in Galland's division, adjoining lot number eight, and from the north-east corner of lot number seven, measuring south fifteen feet six inches, thence west thirteen feet and six inches, thence north fifteen feet and six inches, and thence east on the line of lot number eight, to the place of beginning, thirteen

feet and six inches, together with all tenements and appurtenances to the said lots of land belonging, in whomsoever the legal title thereto may now be vested, shall be, and the same are hereby declared to be, vested in the trustees of Saint Andrew's church, in Halifax, their successors and assigns, for the use and benefit of such church and of the congregation; saving, however, to all purchasers or occupiers of the pews in such church, and to all tenants and occupiers of the several lots of land, or any part thereof, their respective present legal rights, of, in, and to the same.

7. All pew rents, other monies now due, or to become due, or in arrear to the church or congregation, shall be due and payable to the trustees of Saint Andrew's church, in Halifax, and shall be secured, sued for and recovered by them, for the use and benefit of the church or congregation, in the same manner as debts of the like amount are now sued for and recovered.

Pew rents and other monies due trustees, how recoverable.

8. The trustees, or any three of them, shall and may, from time to time, mortgage, lease, and apply, all or any of the lands and goods of the church for the use and benefit of such church, in such manner, and to and for such purposes, as by the congregation, by any rule to be made or resolution to be passed at regularly called meetings, as hereinbefore directed, may be ordered and required.

Leasing, mortgaging, &c., real estate.

9. Whenever any mortgage of such real estate shall be intended to be proposed to any meeting of the congregation, in addition to the notices required to be given of such meeting, by the rules of the congregation then in force, a printed notice of the intended mortgage shall be placed in every pew of the church, on the Sunday immediately previous to such meeting, before the commencement of morning service, as hereinbefore directed in respect to the rules of the congregation; and a declaration of such notices having been so placed, entered on the minutes of the meeting, shall be conclusive evidence of the fact, for all purposes whatsoever.

Notice of.

10. No lease of any lands to be made by the trustees, by virtue of this act, shall be valid or binding for any greater term than five years; and all leases shall be signed by the chairman of the trustees for the time being, under their direction.

Leases—term of, limited.

11. Nothing herein contained shall be construed to affect, alter, remit or defeat any rights of her majesty, or of any body corporate, or of any persons, except such only as are mentioned in this act, and those claiming under them, or any of them.

Rights of her majesty, individuals, &c., not affected.

## CHAPTER 59.

### An Act to Incorporate the Canning Public Hall Company.

(Passed the 31st day of March, A. D. 1853.)

SECTION.

1. Name of members.
2. Capital—shares.

SECTION.

3. Management.
4. Liability of members.

Be it enacted by the governor, council and assembly, as follows :

Name of mem-  
bers.

1. Edward Lockwood, Charles R. Northup, Stephen Harris, Edwin E. Dickey, Benjamin B. Woodworth, Hugh Brady and William Eaton, and such other persons as are now or shall hereafter become shareholders in the company hereby established, their successors and assigns, are created a body corporate by the name of "the Canning public hall company," for the purpose of erecting a public hall at Canning, in the county of King's county.

Capital  
shares.

2. The capital stock of the company shall be five hundred pounds, to be divided into shares of one pound each.

Management.

3. The property and business of the company shall be under the management of a president and such other officers, as may be directed by the bye-laws.

Liability of  
members.

4. No member of the company shall be liable personally, or in his separate estate, for a greater amount in the whole than double the amount of the stock held by him, deducting therefrom the amount actually paid to the company on account of such stock, unless he shall have rendered himself liable for a greater amount by becoming surety for the debts of the company.

## CHAPTER 60.

### An Act to Incorporate the Cornwallis Union Hall Company.

[Passed 31st day of March, A. D. 1853.]

SECTION.

1. Names of members. Purpose of com-  
pany.

SECTION.

2. Real estate, capital, shares.
3. Liability of members.

Be it enacted by the governor, council and assembly, as follows :

Names of mem-  
bers.

1. William Gilliat, Abraham G. Marsters, Thomas H. O'Blanus, Edward E. Armstrong, George R. Clark, and such other persons as are now or hereafter may become shareholders in the company hereby established, their successors and assigns, are created a body corporate by the name of the "Cornwallis union hall company," for the purpose of erecting a hall for temperance and other meetings in church street, Cornwallis, in King's county.

Purpose of com-  
pany.

2. The company may hold real estate not exceeding in value two thousand pounds, and the capital stock of the company shall be limited to two thousand pounds, to be divided into shares of one pound each. Real estate,  
capital, shares.

3. No member of the company shall be liable in his person or separate estate for a greater amount in the whole than double the amount of the stock held by him, deducting therefrom the amount actually paid to the company on account of such stock, unless he shall have rendered himself liable for a greater amount by becoming surety for the debts of the company. Liability of  
members.

## CHAPTER 61.

### An Act to Incorporate the Lakeville Temperance Hall Company.

(Passed the 31st day of March, A. D. 1853.)

SECTION.

1. Names of members. Purpose of company.

SECTION.

2. Real estate, capital, shares.  
3. Liability of members.

Be it enacted by the governor, council, and assembly, as follows :

1. Nathan Tupper, Valentine E. Lawrence, Asahel Bligh, Caleb R. Bill, David Lawrence, and Kinsman Porter, and such other persons as are now, or hereafter may become shareholders in the company hereby established, their successors and assigns, are created a body corporate, by the name of the "Lakeville temperance hall company," for the purpose of erecting a temperance hall near Little Lake, in King's county. Names of mem-  
bers.  
  
Purpose of com-  
pany.

2. The company may hold real estate not exceeding in value five hundred pounds; and the capital stock of the company shall be limited to five hundred pounds, to be divided into shares of one pound each. Real estate,  
capital, shares.

3. No member of the company shall be liable, in his person or separate estate, for a greater amount, in the whole, than double the amount of the stock held by him, deducting therefrom the amount actually paid to the company, on account of such stock, unless he shall have rendered himself liable for a greater amount, by becoming surety for the debts of the company. Liability of  
members.

CHAPTER 62.

An Act to Incorporate the Trustees of the Baptist Church at Westport.

(Passed the 31st day of March, A. D. 1853.)

SECTION.

- 1. Name of trustees.
- 2. Property to vest in.
- 3. Leasing or mortgaging real property—mode of.

SECTION.

- 4. Rights of her majesty, individuals, &c., not affected.

Names of trustees.

Be it enacted by the governor, council and assembly, as follows :

1. Andrew Coggins, Louce Dentin, Thomas McDormand, Holland E. Payson, and Charles P. Morrell, and their respective successors in office, to be elected according to the rules of the church, are hereby created a body corporate, by the name of "the trustees of the Baptist church, at Westport," in the county of Digby.

Property to vest in.

2. Those lots of land, situate at Westport, whereon the church is now erected, as the same are now occupied and used ; and also, all other real estate in which the church or congregation thereof may be interested, are hereby vested in the trustees for the use and benefit of the church ; and the trustees shall have power to purchase, take, and hold, real and personal estate, for such use, not to exceed in value two thousand pounds.

Leasing or mortgaging real property—mode of.

3. The trustees shall have power, upon the vote of a majority of the congregation, to raise funds by mortgage, lease or otherwise, for repairing and keeping in order the real and personal estate belonging to the church. Thirty days notice of such intended mortgage, lease or loan, having been given from the pulpit during the hours of morning service, on the four previous Sundays ; and no such mortgage, lease or loan, shall be valid unless sanctioned by a majority of such meeting, and a declaration of such meeting having given such sanction, entered on the minutes of the meeting, shall be presumptive evidence of the fact.

Rights of her majesty, individuals, &c., not affected.

4. Nothing herein contained shall be construed to interfere with, alter or affect, the rights of her majesty, or any body corporate, or private individuals.

### CHAPTER 63.

#### An Act to Incorporate the Trustees of North Sydney Free Church, in the County of Cape Breton.

(Passed the 31st day of March, A. D. 1853.)

## SECTION.

1. Names of trustees incorporated.
2. Powers of, defined.

## SECTION.

3. Real estate limited.

Be it enacted by the governor, council and assembly, as follows:

1. The trustees of the Free Church at North Sydney, in the county of Cape Breton, in connexion with the Free Church of Scotland, appointed at a meeting held for that purpose, namely, Lauchlan Robertson, John B. Moore, and John Moffat, and their successors in office to be duly appointed, are hereby created a body corporate by the name of "the trustees of the Free Church of North Sydney," in the county of Cape Breton. Names of trustees incorporated.

2. The Trustees shall have power to purchase, take and hold real and personal estate for the use of the church, and the real and personal estate now belonging to the church is hereby vested in such trustees. Powers of, defined.

3. The real estate to be held under this act shall not exceed in value two thousand pounds. Real estate limited.

### CHAPTER 64.

#### An Act to Incorporate the Trustees of the Free Church Congregation, at Sydney.

[Passed the 31st day of March, A. D. 1853.]

## SECTION.

1. Names of trustees incorporated. Property of congregation to vest in trustees.
2. Congregation—who to be deemed members.

## SECTION.

3. Meeting—notice of, business of.
4. Trustees—quorum of, record of proceedings.
5. Vacancies.

Be it enacted by the governor, council, and assembly, as follows:

1. The trustees appointed by the congregation, at Sydney, in the county of Cape Breton, in connexion with the Free Church of Scotland, at a meeting held on the nineteenth day of January, in the year one thousand eight hundred and fifty, namely: Hugh Munro, William Turnbull, Donald Norman McQueen, William Kynoch, and John Ferguson, and their successors in office, shall be a body corporate, by the name of "the trustees of the Free Church congregation, at Sydney," and the real and personal estate Names of trustees incorporated.  
Property of congregation to vest in trustees.

now belonging to that congregation, shall be vested in them as trustees under this act.

2. The persons who subscribed or caused their names to be subscribed at such meeting, and such as may, from time to time subscribe, or cause their names to be subscribed, are hereby declared to be the congregation of the Free Church at Sydney, according to the congregational book, under the ministerial charge of the Reverend Hugh McLeod, and his successors in office, to be elected according to the rules of the Free Church of Scotland, for the time being.

3. The congregation may hold meetings as often as convenient and necessary, provided due notice of such meetings be given from the pulpit at least four days previously, and the object of the meeting stated at the same time; the business of such meetings to be duly entered in a book kept for the purpose, and signed by the chairman.

4. The trustees, three to be a quorum, may meet when necessary, provided public notice be given four days previously, or a written notice to each trustee a week previously; and their proceedings shall be engrossed in a book, and signed by the chairman.

5. In the event of a vacancy by the death, removal, or resignation of a trustee, the vacancy shall be filled up by the majority of the congregation present at a meeting convened for the purpose.

## CHAPTER 65.

### An Act to Incorporate the Grandique Team Boat Company.

(Passed the 31st day of March, A. D. 1853.)

#### SECTION.

1. Names of members. Purpose of company.
2. Capital, shares, bye-laws, real estate.

#### SECTION.

3. Site of the ferry and rates of fares subject to approval of sessions.
4. Liability of members
5. Operation, when to commence.

Be it enacted by the governor, council and assembly, as follows :

1. Andrew Madden, Simon Donovan, Thomas LeNoir, Peter DeCarteret, John Ballam, Thomas H. Fuller, John R. Smith, and such other persons as are now, or shall become shareholders in the corporation hereby established, their successors and assigns, are created a body corporate by the name of "the Grandique team boat company," for the purpose of establishing a regular and efficient ferry communication by means of a team boat to be employed in transporting passengers, horses, cattle and goods, across the Grandique river, in the county of Richmond.

2. The capital of the company shall be five hundred pounds to be divided into shares of two pounds and ten shillings each, but may be increased at any time to one thousand pounds, by

Congregation—  
who to be de-  
clared members.

Meetings—no-  
tice of business  
of.

Trustees—quo-  
rum of, record  
of proceedings.

Vacancies.

Names of mem-  
bers.

Purpose of  
company.

Capital, shares,  
bye-laws, real  
estate.

the bye-laws ; and the company may hold real estate on both sides of the Grandique river, not exceeding, in value, five hundred pounds.

3. The site of the ferry contemplated under this act, shall be settled by the company, subject to the approval of the sessions in the county of Richmond ; and the rates of ferriage shall also be fixed under the sanction of such sessions.

Site of the ferry and rates of fares subject to approval of sessions.

4. No member of the company shall be liable, in his person or separate estate, for a greater amount, in the whole, than double the amount of the stock held by him, deducting therefrom the amount actually paid to the company, on account of such stock, unless he shall have rendered himself liable for a greater amount, by becoming surety for the debts of the company.

Liability of members.

5. The company shall not go into operation, until two hundred pounds shall have been paid in on account of the capital stock.

Operation, when to commence.

## CHAPTER 66.

An Act to Incorporate the Governors of King's College, Windsor, and to repeal the Act for founding, establishing, and maintaining a College in this Province.

(Passed the 4th day of April, A. D. 1853.)

### SECTION.

1. 29 Geo. 3, chap. repealed.
2. Governors—appointment of.
3. Their duration of office.
4. Vacancies.
5. Governors incorporated. Bye-laws. Property to vest in governor. Real estate limited.
6. Government of college.

### SECTION.

7. College to be deemed an university.
8. Present governors to exercise powers vested in them by charter, &c., until appointment of a full board.
9. Honors, degrees, &c.
10. The charter of incorporation not affected by this act.
11. Suspending clause.

Be it enacted by the governor, council, and assembly, as follows :

1. The act passed in the twenty-ninth year of the reign of his late majesty king George the third, entitled, an act for founding, establishing, and maintaining a college in this province, is hereby repealed.

29 Geo. 3, ch. repealed.

2. The lord bishop of Nova-Scotia, the honorable Brenton Halliburton, reverend George McCawley, D. D., the honorable James B. Uniacke, and Lewis Morris Wilkins, esquire, together with eight persons, being members of the church of England, to be elected at a general or special meeting of the "alumni of King's college, Windsor," shall be governors of the college hereby incorporated.

Governors—appointment of.

3. The lord bishop of Nova-Scotia, for the time being, shall be always ex-officio a governor, president of the board and visitor, the said Brenton Halliburton, George McCawley, James B. Uniacke, and Lewis Morris Wilkins, shall be governors for the term of their

Their duration of office.



respective lives; and of the eight persons so to be elected by the alumni of King's college, Windsor, two shall, in each and every year, successively, in the order of their election, go out of office, but such two governors may be re-elected.

Vacancies.

4. All vacancies hereafter occurring, whether by death, resignation, removal from office, or otherwise, amongst the governors, from time to time, shall be filled up by the alumni of King's college, Windsor, in manner hereinbefore appointed, but the governors shall always be elected from among members of the church of England, and every person hereafter elected on any such vacancy, shall, as to his tenure of office, be subject to the regulation hereinbefore prescribed touching the eight persons to be elected by the alumni of King's college, Windsor.

Governors incorporated.

5. For the better management of the college, and for more completely executing the purposes of this act, the governors appointed, and to be appointed from time to time by virtue hereof, shall be a body politic and corporate in deed and in name, and have a common seal and succession for ever, by the name of governors of King's college, Windsor, and by that name shall make bye-laws and ordinances for the regulation and management of the college, and shall also have, hold and enjoy, for the use and benefit of the college, and the purpose of this act, all the goods and chattels, and all the lands which are now had, held, occupied, or enjoyed by "the governors of King's college, of Nova-Scotia," or by "the governors, president, and fellows of King's college, at Windsor, in the province of Nova-Scotia," or by any person in trust for them, or in their behalf, in the same manner as if the same had been duly conveyed and transferred to the governors hereby incorporated, by virtue of a statute of this province, authorizing the conveyance and transfer thereof, and also shall have power to purchase, receive, take, hold, and enjoy, for the use and benefit of the said college, and the purposes of this act, any other goods, chattels, or lands, so as the said last mentioned lands shall not exceed in value ten thousand pounds, and also at all times hereafter shall have power to sell, lease, mortgage, or otherwise dispose of the lands belonging to the college, or any part thereof, for the benefit of the said college, as to the governors, hereby incorporated, shall seem proper, any law to the contrary notwithstanding.

Bye-laws.

Property to vest in governors.

Real estate limited.

Government of college.

6. The governors hereby incorporated, at any general meeting assembled, shall, from time to time, and as they shall think fit, make and establish such statutes and ordinances for the instruction, care, and government of the students, the management of the property of the college, the appointment of the president, professors, fellows, and scholars, (the president always to be a member of the church of England); and also touching any matter or thing respecting the college, which to them shall seem meet.

College to be deemed an university.

7. The college, hereby incorporated, shall be taken to be an university, with all usual privileges of such an institution, whether relating to the conferring of degrees and honors, or otherwise.

8. From the time of this act coming into operation until the appointment of a full board of governors, by virtue hereof, the present governors, shall, notwithstanding this act, continue to exercise all the powers which are now vested in them, by the act hereby repealed, and the royal charter which they now hold.

Present governors to exercise powers vested in them by charter, &c., until appointment of a full board.

9. All academical honors and degrees, and all rights, powers, privileges, and authorities, now had, held, or exercised by any person, by virtue of the act hereby repealed, or of the charter hereinbefore referred to, except so far as they may be necessarily taken away, altered, abridged, or affected, by, or in consequence of this act, shall be had, held, and exercised, in relation to the college hereby incorporated, as fully as they are now had, held, or exercised.

Honors, degrees, &c.

10. The royal charter, incorporating "the governors, president, and fellows of King's college, at Windsor, in the province of Nova-Scotia," shall not be in any manner effected by this act, except so far as may be necessary to give effect to this act.

The charter of incorporation not affected by this act.

11. This act shall not come into operation until her majesty's assent be signified thereto.

Suspending clause.

## CHAPTER 67.

### An Act to Incorporate the Antigonishe Steam Boat Company.

[Passed the 31st day of March, A. D. 1853.]

#### SECTION.

1. Names of members. Purpose of company.
2. Capital stock—shares.

#### SECTION.

3. Liability of shareholders.
4. Operation, when to commence.

Be it enacted by the governor, council, and assembly, as follows :

1. William A. Henry, Joseph Smith, Duncan Grant, Hugh McDonald, Duncan Chisholm, John Cameron, Alexander Thomson, Alexander McInnes, and such other persons as are now or shall become shareholders in the company hereby established, their successors and assigns, are created a body corporate, by the name of "the Antigonishe steam boat company," for the purpose of establishing a regular and efficient steam communication between Antigonishe and other ports in this province and the island of Newfoundland.

Names of members.

Purpose of company.

2. The capital stock of the company shall be ten thousand pounds, to be divided into shares of five pounds each; and the company may hold real estate not exceeding in value one thousand five hundred pounds.

Capital stock—shares.

3. No member of the company shall be liable in his person or separate estate for a greater amount in the whole than double the amount of the stock held by him, deducting therefrom the amount actually paid to the company on account of such stock, unless he

Liability of shareholders.

shall have rendered himself liable for a greater amount by becoming surety for the debts of the company.

4. The company shall not go into operation until four hundred shares shall have been subscribed, and the sum of two thousand pounds actually paid in on account thereof.

Operation,  
when to com-  
mence.

## CHAPTER 68.

### An Act to Incorporate the Halifax Fishing Company.

(Passed the 31st day of March, A. D. 1853.)

#### SECTION.

1. Names of members.
2. Real estate limited to £5000.
3. Capital stock—shares.
4. Operation, when to commence, by-laws, &c.

#### SECTION.

5. Bye-laws and list of shareholders to be registered.
6. Capital stock may be increased.
7. Voting—privilege of, how regulated.
8. Liability of shareholders.

Be it enacted by the governor, council, and assembly, as follows :

1. The honorable William A. Black, the honorable John E. Fairbanks, Jonathan C. Allison, William B. Fairbanks, David Allison, John Esson, Henry Y. Mott, James A. Moren, James B. Oxley, and all persons who shall from time to time become proprietors of shares in the corporation hereby established, their successors and assigns, are hereby erected into a company, and declared to be a body politic and corporate, by the name of "the Halifax fishing company," for the purpose of prosecuting the deep sea and other fisheries from the port of Halifax.

Names of mem-  
bers.

Real estate li-  
mited to £5000.

Capital stock—  
shares.

Operation,  
when to com-  
mence, by-  
laws, &c.

Bye-laws and  
list of share-  
holders to be  
registered.

Capital stock  
may be increas-  
ed.

Voting—privi-  
lege of, how  
regulated.

2. The company shall not hold at any one time real estate of greater value than five thousand pounds.

3. The capital stock of the company shall be twenty-five thousand pounds, to be divided into five thousand shares of five pounds each.

4. When not less than one thousand two hundred shares shall have been subscribed, and three thousand pounds shall be paid in, the company may, by a majority of votes at any meeting thereafter to be held, appoint a president, directors, and officers of the said company, and make bye-laws for the government thereof.

5. The bye-laws and list of shareholders shall, from time to time, be registered in the office of the registrar of deeds for the county of Halifax.

6. Whenever it shall become necessary to increase the capital stock, the company, at any general meeting to be called agreeably to the bye-laws, may, with the previous assent of the governor in council, increased it to a sum not exceeding fifty thousand pounds, to be divided into shares of five pounds each.

7. At any general meeting of the said company, every shareholder, having paid up all calls upon him then due, shall be entitled to vote according to the number of shares which he may possess.

that is to say: the owner of one share shall have one vote; the owner of four shares two votes; and the owner of eight or more shares three votes, and no more, and may give such vote or votes by his or her proxy, duly constituted according to the bye-laws, such proxy being a shareholder and entitled to vote.

8. No shareholder shall be liable for the debts of the company in his person or separate estate for a greater amount in the whole than double the amount of the stock held by him, deducting therefrom the amount actually paid to the company on account thereof, unless he shall have rendered himself liable for a greater amount by becoming surety for the debts of the company.

Liability of shareholders.

## CHAPTER 69.

### An Act to Incorporate the Ogilvie Brook Pier Company of Cornwallis.

(Passed the 31st day of March, A. D. 1853.)

#### SECTION.

1. Names of members.
2. Real estate, capital, shares.

#### SECTION.

3. Purpose of Company. Rates of dockage, &c. subject to approval of sessions.

Be it enacted by the governor, council, and assembly, as follows:

1. Alexander McConnell, James Ogilvie, Oliver H. Cogswell, Ephraim Patterson, William Ogilvie, William Cook, John Armstrong, and such other persons as are now or shall become proprietors of shares in the corporation hereby established, their successors and assigns, are hereby constituted a body corporate, by the name of "the Ogilvie brook pier company of Cornwallis."

Names of members.

2. The company shall not, at any time, hold real estate of greater value than one thousand pounds; and the capital of the company shall be limited to one thousand pounds, to be divided into shares of two pounds ten shillings each.

Real estate, capital, shares.

3. The company may erect a public pier or wharf at Ogilvie brook, in the county of King's, upon any land or land covered with water, owned by the company and secured to the public; and may erect stores and buildings for the accommodation of the public, such pier or wharf, stores and buildings, to be open and free for the use of all vessels and persons whomsoever, and to be subject to such rates of dockage, wharfage, and storage, as shall be established by such company, under the sanction and approbation of the sessions.

Purpose of company.

Rates of dockage, &c. subject to approval of sessions.

## CHAPTER 70.

An Act to amend the Acts for Incorporating the Trustees of the Free Church Congregations, of Sydney, Catalogne, Mire, Cow-bay, and Forks, in the County of Cape Breton.

(Passed the 31st day of March, A. D. 1853.)

## SECTION.

1. Trustees may increase their numbers.  
When congregation does not appoint trustees.
2. Pew rents and other monies to be payable to trustees.

## SECTION.

3. Trustees authorised to finish churches and to contract loan for the purpose.
4. General meetings, when to be held—trustees' accounts.

Be it enacted by the governor, council, and assembly, as follows :

1. The trustees of the several congregations above named, and their successors in office, may, from time to time, with the consent of the minister for the time being, increase their number by the addition of such other suitable persons as may be deemed necessary for the due management of their respective trusts and obligations; and if, at any time, the congregation or congregations, neglect to appoint trustees, or in case the trustees themselves neglect to add to their number when necessary, the presbytery of the bounds, with the consent of the minister, unless there be a vacancy, shall appoint such persons as they may deem fit for the office; and in all cases, each person so appointed and his successors in office, shall have co-ordinate rights, powers, and obligations, with the other trustees.

2. All pew rents, subscriptions for the sustentation of the ministry, or for building places of worship, or other monies whatsoever, now or hereafter to be due, owing, coming, or in arrear, to or for the benefit of such churches or congregations, or for the purposes of the trust, shall be payable to the trustees, respectively; and shall be secured, sued for, and recovered by them or by their convener or secretary, for the purposes contemplated, in the same manner, and by the same means as debts of the like amount may or can be sued for and recovered.

3. The trustees of each congregation are hereby empowered to finish their respective places of worship, and if the amount originally subscribed by parties be insufficient for that purpose, they are hereby authorised to effect a loan, which, in no case shall exceed sixty pounds, currency, on the security of such churches, respectively.

4. Two general meetings, at least, shall be held by the trustees, in each year, namely: in March and in September, at which each trustee shall submit a return of all sums paid, and all arrears due at each term, by each subscriber within the district entrusted

Trustees may increase their numbers.

When congregation does not appoint trustees.

Pew rents and other monies to be payable to trustees.

Trustees authorised to finish churches, and to contract loan for the purpose.

General meetings, when to be held—trustees' accounts.

to him, which returns, after being submitted to the meeting and approved of, shall be delivered to the moderator of the presbytery of the bounds, to be by him submitted to that court.

## CHAPTER 71.

### An Act to Incorporate the Northumberland Straits Fishing Company.

[Passed the 31st day of March, A. D. 1853.]

#### SECTION.

1. Names of members.
2. Capital stock—shares—operation.
3. Real estate limited.

#### SECTION.

4. Liability of members.
5. Bye-laws, &c. to be registered.

Be it enacted by the governor, council, and assembly, as follows :

1. Sir Augustus William Hillary, George Westbrook, Jacob Silliker, Alexander Monro, Joseph Harper, Richard Goodwin, Stephen Gooden, Frederick Augustus Burgett, John Robert Brutton, and such other persons as are now or shall become shareholders in the corporation hereby established, their successors and assigns, are created a body corporate, by the name of "the Northumberland Straits fishing company," for the purpose of carrying on a fishery, on and near the shores and rivers of this province.

2. The capital stock of the company shall be twenty thousand pounds, to be divided into shares of ten pounds each, but may be increased, from time to time, by the bye-laws, to any sum not exceeding thirty thousand pounds; but the company shall not go into operation until five thousand pounds shall have been actually paid in on account of such capital stock.

3. The company may hold real estate, within this province, not exceeding five thousand acres.

4. No member of the company shall be liable in his person or separate estate, for a greater amount, in the whole, than double the amount of the stock held by him, deducting therefrom the amount actually paid to the company on account of such stock, unless he shall have rendered himself liable for a greater amount, by becoming surety for the debts of the company.

5. The bye-laws and list of shareholders, shall be annually registered in the registry of deeds, for the county of Cumberland.

## CHAPTER 72.

### An Act for further increasing the Capital Stock of the Halifax Water Company.

[Passed the 31st day of March, A. D. 1853.]

SECTION. 1. Capital stock may be extended to £40,000.

Be it enacted by the governor, council, and assembly, as follows:

Capital stock  
may be extend-  
ed to £40,000.

1. The capital or joint stock of the Halifax water company, which, by the act of incorporation of such company, passed in the seventh year of her majesty's reign, and by an act in amendment thereof, passed in the ninth year of her majesty's reign, is fixed at thirty thousand pounds, shall and may be extended to the sum of forty thousand pounds, or to such other amount, under that sum, as shall by the company be deemed necessary; to be divided into shares of the like amount, and subject to such bye-laws, rules, and regulations, as in respect to the original capital in such act of incorporation, is prescribed and contained.

## CHAPTER 73.

### An Act to enable Asa Willard to obtain Letters Patent for the invention of a Butter Machine.

[Passed 31st day of March, A. D. 1853.]

SECTION. 1. Benefit of chap. 120 revised statutes conferred on inventor.

Be it enacted by the governor, council, and assembly, as follows:

Benefit of chap.  
120 revised  
statutes con-  
ferred on inven-  
tor.

1. It shall be lawful for Asa Willard, of Saint John, in the province of New Brunswick, upon his having complied with the provisions of chapter one hundred and twenty of the revised statutes, to obtain letters patent for his invention of a machine for manufacturing butter, notwithstanding his being resident out of this province, to the same extent in every respect as if he had been an inhabitant thereof, and had resided therein for one year previously to his application for such letters patent; and when such letters patent are obtained, he shall be entitled to all the rights, and privileges by such acts conferred.