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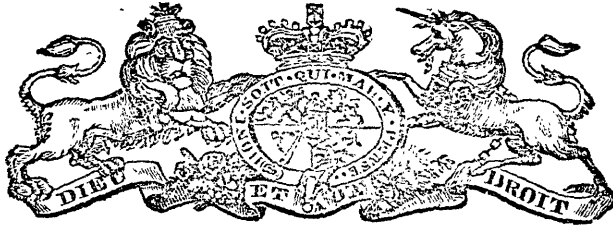
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**S T A T U T E S,**  
**OF HER MAJESTY'S PROVINCE**  
**OF**  
**UPPER CANADA,**  
**PASSED IN THE**  
**THIRD SESSION OF THE THIRTEENTH PROVINCIAL PARLIAMENT**  
**OF UPPER CANADA.**

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**By Authority.**

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**SIR FRANCIS BOND HEAD, BART. K. C. H.**  
**LIEUTENANT GOVERNOR.**

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**TORONTO:**

Printed by **ROBERT STANTON**, Printer to the **QUEEN'S MOST EXCELLENT MAJESTY.**

1838.



# S T A T U T E S

OF

## Upper Canada,

PASSED IN THE THIRD SESSION OF THE THIRTEENTH PROVINCIAL PARLIAMENT :  
MET AT TORONTO ON THE TWENTY-EIGHTH DAY OF DECEMBER, 1837, AND PROROGUED  
ON THE SIXTH DAY OF MARCH, 1838, IN THE FIRST YEAR OF THE  
REIGN OF VICTORIA.

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SIR FRANCIS BOND HEAD, BART. K.C.H.  
LIEUTENANT GOVERNOR.

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ANNO DOMINO 1838.

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### CHAP. I.

*AN ACT to authorise the apprehending and detention of Persons suspected of High Treason, Misprision of Treason, and Treasonable Practices.*

[Passed, 12th January, 1838.]

**W**HEREAS a traitorous conspiracy hath been formed for the purpose of overthrowing, by means of Insurrection, the Government, Laws and Constitution of this Province, and the happy connection thereof with the Mother Country: *And whereas*, designs and practices of a treasonable and highly dangerous nature are now carrying on in some parts of this Province: Therefore for the better preservation of the Peace, Laws and Liberties, of this Province, *Be it enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assem-  
Preamble.



bled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That all or any person or persons that are or shall be in prison in this Province, at or upon the day on which this Act shall receive the Royal Assent, or after, by Warrant of the Lieutenant Governor of this Province, in Council, for High Treason, suspicion of High Treason, or Treasonable Practices, may be detained in safe custody, without bail or mainprize, during the continuance of this Act; and that no Judge or Justice of the Peace shall, during such continuance, bail or try any such person or persons so committed, without an order from the Lieutenant Governor of this Province, in Council, any Law or Statute to the contrary notwithstanding: *Provided always*, that nothing in this Act contained shall extend, or be construed to extend, to any Seditious Language or other act of Sedition, only uttered, spoken, committed or done, before the first day of December last passed.

Persons in prison at or after passing this Act, under warrant of Governor in Council, upon charge of High Treason, suspicion of High Treason, or Treasonable Practices, may be detained without bail, and not to be tried without an order from Governor in Council.

After Act expires, persons committed to have advantage of Laws relating to liberty of Subject.

II. *Provided always, and be it further enacted by the authority aforesaid*, That from and after the expiration of this Act, the said persons so committed shall have the benefit and advantage of all Laws and Statutes in any way relating to or providing for the liberty of the Subjects of this Province.

Not to interfere with rights and privileges of Members of Assembly, & during sitting of Legislature charges against Members to be communicated to the House of which accused belongs, & assent to his commitment to be obtained.

III. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this Act contained shall be construed to extend to invalidate the rights and privileges of this Provincial Parliament, or to the imprisonment or detaining of any Member of either House of the Legislature thereof, during the sitting of the same, until the matter of which he stands suspected be communicated to the House of which he is a Member, and the consent of the said House be obtained for his commitment or detaining.

Accused persons to be confined by order of Governor in Council, to any Gaol of the Province.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Lieutenant Governor of this Province, as he shall see occasion, by and with the advice of the Executive Council, to order any person committed to any Gaol, on any charge of High Treason, suspicion of High Treason, or Treasonable Practices, either before or after Indictment found, to be conveyed or detained in any other Gaol, or other Prison, or safe place of confinement, until discharged by due course

of Law, and to issue all Warrants necessary for such purposes: *Provided always, nevertheless*, that no person who shall be removed by any such Warrant as aforesaid, shall, by means of such removal, be deprived of such right to be tried or discharged, as such person would by Law have been entitled to if not so removed; and in every case in which any such person would have been entitled to have been tried or discharged, if such person had continued in the Gaol or Prison to which such person was before committed, it shall and may be lawful for such person to apply to be bailed or discharged, in the same manner as such person might have done if he had remained in the Gaol or Prison to which such person was before committed, as aforesaid.

Right to be tried in place where offence committed, and to be bailed, not taken away.

V. *And be it further enacted by the authority aforesaid*, That for and during the continuance of this Act, in all and every case in which application shall be made for Her Majesty's Writ of Habeas Corpus to any Court or Courts, Judge or Judges, within this Province, by any person or persons who are or shall be in Prison within this Province, at or upon the day on which this Act shall receive the Royal Assent, or afterwards, charged by any public authority, with High Treason, misprision of High Treason, or Treasonable Practices, such Writ of Habeas Corpus, if allowed, shall not be made returnable in less than thirty days from the time of its being allowed; and in all and every such case and cases, it shall be the duty of such Court, or Judge or Judges, and of each and every of them, and they are hereby required, when and so soon as such application for such Writ of Habeas Corpus shall to them be respectively made, to give notice and information thereof in writing together with copies of such application, and of the Affidavit or Affidavits, or other paper-writings, on which such application shall be founded, to the Governor, Lieutenant Governor, or Person Administering the Government, for the time being.

Restrictions relative to the granting the Writ of Habeas Corpus.

VI. *And be it further enacted by the authority aforesaid*, That this Act shall be and continue in force to the end of the next Session of Parliament, and no longer.

Limitation of Act.

## CHAP. II.

*AN ACT to provide for the more effectual and impartial Trial of Persons charged with Treason and Treasonable Practices, committed in this Province.*

[Passed 12th January, 1838.]

Preamble.

Trials for High Treason, Misprision of High Treason, & Treasonable Practices, may be tried in Court of King's Bench where that Court shall sit, or before Justices of Gaol Delivery, in such District as shall be assigned by Governor.

**FOR** the more impartial and effectual trial and punishment of all Offences of High Treason, and Treasonable Practices, committed in this Province, and for taking away hopes of impunity from persons guilty of crimes so dangerous to Her Majesty's Government: *Be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, all offences of High Treason, and Misprision of High Treason, and of Treasonable Practices, already committed or to be committed within this Province, may be inquired of, heard, tried and determined, in the Court of King's Bench within the same, in the District where that Court shall sit, or before such Justices of Oyer and Terminer and Gaol Delivery, within such District of this Province as shall be assigned by the Lieutenant Governor of this Province, by Commission under the Great Seal, in like manner and form, and to all intents and purposes, as if such offences had been done or committed in the same District where they shall be so inquired of, heard and determined, as aforesaid.

Jury to be summoned from District where Court of King's Bench sits, or where Commission of Gaol Delivery shall be executed.

**II.** *And be it further enacted by the authority aforesaid*, That all inquiries and trials for High Treason, or Misprision of High Treason, or Treasonable Practices, committed or to be committed in the said Province, may be had by good and lawful men of the District where the said Court of King's Bench shall sit, or of the District where the said Justices of Oyer and Terminer and Gaol Delivery shall execute their said Commissions by virtue of the provisions of this Act, and that no challenge to Jurors, for not being of the District where the offence was committed, shall be allowed.

III. *And be it further enacted by the authority aforesaid, That Her Majesty's Chief Justice of the said Province, and the Justices of the Court of King's Bench therein, shall be named and assigned Justices in every such Commission, whereof one to be of the quorum.*

Chief Justice, and Judges of King's Bench, to be assigned in Commission of Gaol Delivery, and one to be of the Quorum.

IV. *Provided always, and be it further enacted by the authority aforesaid, That all persons convicted or attainted of High Treason, or Misprision of High Treason, or Treasonable Practices, pursuant to this Act, shall be subject and liable to the same corruption of blood, pains, penalties and forfeitures, as persons convicted and attainted of High Treason, or Treasonable Practices, in the same District where such offences have been committed.*

Corruption of blood, &c. to follow attainder of persons convicted of High Treason in any District appointed for trial.

V. *And be it further enacted by the authority aforesaid, That this Act shall be and continue in force until the first day of January next, and from thence until the end of the next ensuing Session of Parliament.*

Limitation of Act.

## CHAP. III.

*AN ACT to protect the Inhabitants of this Province against Lawless Aggressions from Subjects of Foreign Countries, at Peace with Her Majesty.*

[Passed 12th January, 1838.]

**WHEREAS** a number of persons lately inhabiting the State of New York, or some one of the other United States of America, have within the said State of New York, lately enlisted or engaged themselves to serve as Soldiers, or have procured others to enlist or engage themselves to serve as Soldiers, and have within the said State of New York collected Artillery, Arms and Ammunition, and made other preparations for a hostile invasion of this Province, under the pretext of assisting certain Traitors who have fled from this Province to the said United States: *And whereas* the said persons, without the authority of their Government, and in defiance of its express injunctions, have actually invaded this Province, contrary to the faith and obligations of the Treaties subsisting between the United Kingdom of Great Britain and Ireland, and the said United States, and during the continuance of the relations of amity and peace between the two Countries: *And whereas*, it is necessary for protecting the peace and security of this Province, to provide for the prompt punishment of persons so offending: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative

Preamble.

Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That if any person, being a Citizen or Subject of any Foreign State or Country at peace with the United Kingdom of Great Britain and Ireland, having joined himself before or after the passing of this Act, to any Subjects of our Sovereign Lady the Queen, Her Heirs or Successors, who, or hereafter may be, traitorously in arms against Her Majesty, Her Heirs or Successors, shall after the passing of this Act be or continue in arms against Her Majesty, Her Heirs or Successors, within this Province, or commit any act of hostility therein, then it shall and may be lawful for the Governor of this Province to order the assembling of a Militia General Court Martial for the trial of such person, agreeably to the Militia Laws of this Province, and upon being found guilty by such Court Martial of offending against this Act, such person shall be sentenced by such Court Martial to suffer death, or such other punishment as shall be awarded by the Court.

Persons being Citizens or Subjects of a Foreign Power, taken in arms in this Province, may, in certain cases, be tried by Court Martial;

And upon conviction sentenced to death.

Subjects of Her Majesty may be in like manner tried and punished by Court Martial.

II. *And be it further enacted by the authority aforesaid,* That if any Subject of Her Majesty, Her Heirs or Successors, shall within this Province levy War against Her Majesty, Her Heirs or Successors, in company with any of the Citizens or Subjects of any Foreign State or Country, then being at peace with the United Kingdom of Great Britain and Ireland, and offending against the provisions of this Act, then such Subject of Her Majesty, Her Heirs or Successors, shall be liable to be tried and punished by a Militia General Court Martial, in like manner as any Citizen or Subject of a Foreign State or Country at peace with Her Majesty, Her Heirs or Successors, is liable under this Act to be tried and punished.

Citizens or Subjects of Foreign Countries offending against this Act, may be tried before Court of Oyer and Terminer.

III. *And be it further enacted by the authority aforesaid,* That the Citizen or Subject of any Foreign State or Country offending against the provisions of this Act, shall be deemed guilty of Felony, and may notwithstanding the provisions hereinbefore contained, be prosecuted and tried before any Court of Oyer and Terminer and General Gaol Delivery in and for any District of this Province, in the same manner as if the offence had been committed in such District, and upon conviction shall suffer death as in cases of Felony.

## CHAP. IV.

### *AN ACT to continue the Expiring Laws.*

[Passed 12th January, 1838.]

**WHEREAS** it is necessary, under the peculiar circumstances of the Province at this time, to continue, by one Act, all Laws about to expire at the close of the present Session of the Provincial Legislature: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That all Laws expiring at the close of the present Session of the Legislature, be and the same are hereby revived and continued, until the close of the next ensuing Session of Parliament, and no longer.

Preamble.

All Laws expiring at close of Session, to be continued until close of next Session.

## CHAP. V.

### *AN ACT to regulate the future erection of Gaols in this Province.*

[Passed 12th January, 1838.]

**WHEREAS** it is expedient that measures should be taken for ascertaining and determining upon the plan of a Gaol, which will be best adapted to insure the health and comfort, as well as the safe custody of the Prisoners to be confined therein, in order that by the adoption of such plan in the first instance, the expense of future alterations may be avoided, and much unnecessary suffering prevented: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the

Preamble.

Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That it shall and may be lawful for the Lieutenant Governor of this Province, after the passing of this Act, to appoint three Commissioners, who, together with the Chief Justice of this Province, the Vice-Chancellor, the Judges of Her Majesty's Court of King's Bench, and the Sheriffs of the several Districts in this Province, shall compose a Board of Commissioners for the purposes of this Act.

Governor to appoint three Commissioners, who, with Chief Justice, Vice Chancellor, Judges of King's Bench, and Sheriffs of Districts, to compose a Board for purposes of Act.

Future Gaols to be built according to a plan to be approved by Commissioners, and unless approved, not to be the Gaol of District.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, every Gaol that shall be erected in this Province, shall be made and built according to a plan which shall be approved of by such Commissioners, or a majority of them; and no Gaol that shall be built in any District otherwise than according to a plan prescribed by them, or that shall not after its completion receive their sanction and approbation, shall be deemed to be in Law the Gaol of such District.

Manner of disposing of existing contracts for erection of Gaols, &c. and making compensation to contractors.

III. *And be it further enacted by the authority aforesaid,* That if a contract shall before the passing of this Act have been entered into, for the erection of any Gaol in this Province, which contract shall only have been partly carried into effect, or shall not have been to any extent proceeded in, the Justices or other persons superintending or directing the erection of such Building, or any who shall have entered into the contract for the same, shall immediately, on having notice of this Act, suspend all proceeding under such contract, and shall forthwith submit their contract, with the plans and specifications, to the consideration of the Board of Commissioners; and the Board shall determine as soon as may be practicable, whether it may be expedient to proceed upon such contract or to abandon the same, or to erect such Gaol wholly or in part upon a different plan; and that in case it shall be determined by the Commissioners not to proceed under the existing contract, then the amount of damages, if any, which the Contractor or Contractors may be justly entitled to receive, on account of the abandonment of such contract shall be ascertained by arbitration, and that the said Board of Commissioners shall appoint two persons, and the Contractor or Contractors two other persons, to be respectively Arbitrators in their behalf, which four persons shall choose a fifth, and the award of such five Arbitrators, or a majority of them, shall be final; *Provided always,* that the proceedings of such Arbitrators shall be governed by the same rules, and the Arbitrators shall have the same power as in ordinary cases of Arbitration, and the award to be made by them shall be subject to be set aside by the Court of King's Bench, in like manner as awards made in other cases.

IV. *And be it further enacted by the authority aforesaid,* That the sum which may be awarded in any case shall be paid out of the funds of the District in which such Gaol was to have been built, by order of the Justices of the Peace for such District.

How sum awarded to contractor to be paid.

V. *And be it further enacted by the authority aforesaid,* That the Board of Commissioners appointed under the authority of this Act, before deciding in any case upon the plan of a Gaol most proper to be adopted, shall take into their consideration the nature and extent of the ground on which such Gaol is to be built; its relative situation to streets and buildings, and to any river or other water; its comparative elevation and capability of being drained; the materials of which it is to be composed; the necessity of guarding against cold and damp, and of providing properly for ventilation; the proper classification of Prisoners, having respect to their age, sex, and the cause of their confinement; the best means of ensuring their safe custody, without the necessity of resorting to severe treatment; the due accommodation of the Keeper of the Gaol, so that he may have ready access to the Prisoners, and may conveniently oversee them; the exclusion of any intercourse with persons without the walls of the building; the prevention of unwholesome nuisances from whatever cause; the combining provision for the reformation of Convicts, so far as may be practicable, and for their employment, in order that the common Gaols may really serve for places of correction according to the intention of the law; the admission of Prisoners to air and exercise without the walls of the building, when that may be proper; and the enclosure of the yards and premises with a secure wall; and that regard shall also be had to the ability of the District to meet the expense of any proposed building, and to the expediency of adopting such a plan as may most conveniently and properly admit of the erection of additional cells and apartments, when the same may be required.

Manner in which Commissioners are to proceed, before deciding on plan of Gaol, &c. and considerations by which they are to be guided.

Description of Prisons, &c.

VI. *And be it further enacted by the authority aforesaid,* That the said Board of Commissioners shall, as soon as may be convenient, frame a set of rules and regulations for the government of common Gaols in this Province, extending to the maintenance of the Prisoners in regard to diet, clothing, bedding and other necessaries; medical attendance; religious instruction; the conduct of the Prisoners, and the restraint and punishment to which they may be subjected; and also to the treatment and custody of the Prisoners generally, and to the whole internal economy and management of the Gaol, and all such matters connected therewith, as shall be thought by them expedient; which rules and regulations shall be transmitted to the Lieutenant Governor of this Province, to be laid

Commissioners to form rules for government of Common Gaols.



before each House of the Legislature at their next Session, and shall not take effect until after the termination of such Session.

First meeting of Commissioners to be first Monday in May next.

VII. *And be it further enacted by the authority aforesaid,* That the first meeting of the Commissioners to be appointed under this Act, shall be holden on the first Monday in the month of May next, and that they shall at such meeting arrange certain regular days of meeting thereafter, and may meet at such other times as may be thought by them convenient, at the call of the Chairman of such Board, and that a majority of the Members present at any such meeting shall be competent to transact business.

Commissioners to make annual report to Legislature.

VIII. *And be it further enacted by the authority aforesaid,* That a yearly report of the Commissioners shall be made to both branches of the Legislature.

## CHAP. VI.

*AN ACT to repeal part of and amend, an Act passed in the seventh year of His late Majesty's reign, entitled, "An Act to appoint the time and place for holding the Court of General Quarter Sessions of the Peace in each of the several Districts of this Province, and to repeal the several Laws now in force for that purpose."*

[Passed 12th January, 1838.]

Preamble.

WHEREAS from the disturbed state of the Province, more especially in the District of Niagara, it is expedient to alter the time of holding the Courts of General Quarter Sessions in that District: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, an "Act to repeal certain parts of Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That so much of an Act passed in the first Session of the present Parliament, entitled, "An Act to appoint the time and place for holding the Court of General Quarter Sessions of the Peace in each of the several Districts of this Province, and to repeal the several Laws now in force for that purpose," as relates to the District of Niagara, be and the same are hereby repealed.

Previous Act, appointing time for holding Courts of Quarter Sessions, repealed so far as respects District of Niagara.

II. *And be it further enacted by the authority aforesaid, That the Courts of General Quarter Sessions of the Peace in the District of Niagara, shall be holden at the place and times following, viz : at the Town of Niagara, on the second Tuesday in March, June, September, and December.*

Time for holding Session in District of Niagara, appointed.

III. *And be it further enacted by the authority aforesaid, That this Act shall be and continue in force for and during the term of two years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.*

Continuance of Act.

## CHAP. VII.

*AN ACT to amend the Law with respect to the liability of the Legal Representatives of Joint Contractors, and of Defendants on Joint Judgments.*

[Passed 12th January, 1838.]

**W**HEREAS by the Laws of this Province, if one or more of several Defendants against whom a Joint Judgment shall have been entered, or if one or more of several Joint Contractors, Obligors or Partners, shall die, the representative of such Defendant, Joint Contractor, or Obligor or Partner, is not liable under such judgment, contract, obligation or promise; for the remedy whereof, *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and Assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That if any one or more of any Joint Contractors, Obligors or Partners, shall die, it shall and may be lawful for the person interested in such contract, obligation or promise, entered into by such Joint Contractor, Obligor or Partner, to proceed by action against the Representatives of such Joint Contractor, Obligor or Partner, in the same manner as if the said contract, obligation or promise, had been joint and several, notwithstanding there may be another person liable under such contract, obligation or promise, still living, and an action pending against such person.

Preamble.

Representatives of deceased Joint Contractor made liable, notwithstanding the other Joint Contractor be living.

Proceeding by Writ of Scire Facias against Representative of deceased Joint Contractor authorized.

No greater sum to be collected than Debt and Damages justly due.

Limitation of liability of Stock-Holders in Chartered Banks, or Incorporated Companies.

II. *And be it further enacted by the authority aforesaid,* That if any one or more of the Defendants in any action, against which a joint judgment may have been entered in any Court of Record in this Province shall die, it shall and may be lawful for the Plaintiff or Plaintiffs, or the Survivor or Survivors of them, or the Executor or Administrator of such Survivor, to proceed by Writ of Scire Facias against the Representatives of such Defendant or Defendants respectively, so dying, notwithstanding there may be another Defendant still living, and against whom the said judgment may be in force: *Provided always,* that nothing in this Act contained shall be construed to extend to authorise the collection of a greater sum than the debt or damages justly due, with interest and costs: *Provided always,* that the property and effects of Stock-Holders in Chartered Banks, or the Members of other Incorporated Companies, shall not be rendered liable to a greater extent than they would have been if this Act had not been passed.

## CHAP. VIII.

*AN ACT to amend, and reduce into one Act, the Militia Laws of this Province.*

[Passed 6th March, 1838.]

Preamble.

**WHEREAS** the several laws now in force for embodying, organizing and training the Militia of this Province are, in many instances, defective and inefficient: *Be it therefore enacted,* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the Lieutenant Governor from time to time, to divide the Militia of this Province into such number of Regiments or Battalions as he may deem most conducive to the efficiency of the said Militia, and under his hand and seal to appoint a sufficient number of Colonels, Lieutenant Colonels, Majors, Captains and other Officers, to train, discipline and command the said Militia, according to such rules, orders and directions, as shall from time to time be issued by him for

Lieutenant Governor may divide Militia into Regiments or Battalions, and appoint Officers.

that purpose; which Officers of Militia shall rank with Officers of Her Majesty's Forces serving in this Province, as junior of their respective rank.

Officers to rank as Junior to Her Majesty's Forces.

II. *And be it further enacted by the authority aforesaid,* That the Militia of this Province shall be composed of the male Inhabitants thereof, being not less than sixteen, nor more than sixty years of age.

Militia-men to be not less than sixteen, nor more than sixty years of age.

III. *And be it further enacted by the authority aforesaid,* That the Officers now commanding Regiments or Battalions of Militia, or who shall hereafter command the same, shall require the Captains or Officers commanding companies or divisions in such Regiment or Battalion, to call upon the inhabitants liable to serve as Militia within the limits of his company or division, to enrol their names as Militia-men, at least once in every year, that is to say, on the fourth day of June, or if that day be upon Sunday, then on the following day, in each year, which enrolment shall be made at a place to be appointed by the Officer commanding the Regiment or Battalion.

Militia to enrol themselves once a-year, at place appointed by Commanding Officer.

IV. *And be it further enacted by the authority aforesaid,* That every person liable to serve in the Militia in this Province, residing within the limits of any Regiment or Battalion, shall appear at the place so appointed by the Officer commanding such Regiment or Battalion, and there enrol his name as a Militia-man; and if a question shall arise as to the age of any person required so to enrol himself, it shall be incumbent on him to prove his age.

Incumbent on every Militia-man to prove his age.

V. *And be it further enacted by the authority aforesaid,* That if the Militia shall be required to enrol their names oftener than once in each year, as hereinbefore provided, the Captains or Officers in command of Companies shall cause a verbal or written notice to be given to the Militia within the limits of their Companies, of the time and place where such enrolment is to take place, at least four days before such enrolment is appointed to take place, which notice shall be delivered by such Non-commissioned Officer of the Companies respectively, as the Captain or Officer in command of Companies shall appoint and direct to deliver the same: *Provided always,* that no person shall be obliged to enrol himself as aforesaid, unless such person is a natural-born subject of Her Majesty, or a subject of Her Majesty, naturalized by an Act of the British Parliament, or become such by an Act of the Parliament of this Province, or a person who has taken the oath of allegiance.

Notice to be given when Militia are required to train oftener than once a-year.

No person required to enrol himself who is not a Subject of Her Majesty.

Lieutenant Governor may call out Militia in time of war, rebellion or invasion, and continue them embodied so long as necessary.

Persons refusing or neglecting, to be fined or imprisoned.

How penalties are collected.

Person called upon to serve, may find substitute.

Militia may be marched to Lower Canada, or to any place where preparation is making to invade this Province.

VI. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Lieutenant Governor to call out and embody the Militia of this Province, or any portion thereof, in a time of actual war with a Foreign Power; to put down or suppress rebellion; to repel invasion; or for any purpose connected with the preservation of the public peace, and to continue the Militia so called out embodied for actual service, so long as in his opinion may be necessary; and any person refusing to obey such order or command, or absconding from, or neglecting to repair to the place he is ordered to, being a Commissioned Officer, shall forfeit and pay the sum of fifty pounds, and be held to be unfit to serve Her Majesty as an Officer in any Military capacity, and being a Non-commissioned Officer, or Private, shall forfeit and pay the sum of twenty pounds; and in default of payment for such refusal or neglect, such Officer, Non-commissioned Officer, or Private, shall be committed to the common Gaol of the District, for any time not less than six, nor more than twelve calendar months, except such person shall satisfy the Colonel or Officer commanding such Regiment or Battalion to which he belongs, that such refusal or neglect arose from sickness, or that he was absent upon leave; and that all such penalties shall be levied and collected in the same manner as penalties are authorised to be levied and collected by the authority of this Act, for disobedience of orders in time of peace: *Provided always,* that whenever it shall happen that only part of the Militia of this Province shall be called out for actual service, it shall and may be lawful for any person being of the Militia of the County or Riding that may be so called out, or of any City within the same, duly chartered by any Act of the Parliament of this Province, to provide and send an able-bodied man to serve in the said Militia in his stead, and such able-bodied man shall be taken and received as a proper substitute for such person living in the County, Riding or City, that would otherwise be obliged to serve in the said part of the Militia called out as aforesaid.

VII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor, to embody the Militia of this Province, or such portion thereof as he may think necessary and expedient, and to march the same into the Province of Lower Canada at any time when the same shall be actually invaded, or threatened with invasion, or in a state of insurrection; or to march the said Militia, or any portion thereof, to any place without the limits of this Province, for the attack of any enemy that may have invaded, or may be marching or collected for the purpose of invading this Province; or for the destruction of any vessel or vessels built or building, or any fort, depot or magazine, formed or forming by any Foreign Power at war with our Sovereign Lady the

Queen, her Heirs or Successors, from whence the invasion of this Province may be apprehended.

VIII. *And be it further enacted by the authority aforesaid,* That all Officers of Militia appointed under and by virtue of this Act shall hold their Commissions during pleasure.

Officers to hold their Commissions during pleasure.

IX. *And be it further enacted by the authority aforesaid,* That the Colonel or Officer commanding any Regiment or Battalion of Militia within this Province, shall have power and authority to assemble his respective Regiment or Battalion two days in each year, and oftener if thereunto directed by the Lieutenant Governor, at such place or places as he shall appoint, for the purpose of drill and inspection.

Officers commanding Regiments, may assemble them two days in each year, or oftener if required by Lieutenant Governor.

X. *And be it further enacted by the authority aforesaid,* That on or before the fourteenth day of June in each and every year, the Colonel or Officer commanding any Regiment or Battalion of Militia in this Province, shall transmit to the Adjutant General of the Province, a return of the effective strength of the same; the vacancies that may have occurred from any cause among the Officers of such Regiment or Battalion; and the names of persons recommended to fill such vacancies, together with such further information as the Lieutenant Governor shall from time to time direct to be included in such return.

Officers commanding Regiments to transmit returns to Adjutant General's office.

XI. *And be it further enacted by the authority aforesaid,* That the Lieutenant Governor shall have full power and authority to appoint persons belonging to his personal Staff, or on the Staff of the Militia, to such Militia rank as he may think proper to confer, not exceeding the rank of Lieutenant Colonel, independent of and apart from any rank that may be held by such person in any Regiment or Battalion of Militia in this Province.

Lieutenant Governor may appoint Staff Officers.

XII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor, from time to time, to prescribe the uniform to be worn by the Militia of the Province, when on duty or assembled for drill or inspection.

Lieutenant Governor to prescribe uniform.

XIII. *And be it further enacted by the authority aforesaid,* That any Officer of Militia who shall not, within one year from the time the Lieutenant Governor shall prescribe the uniform for the respective Regiments or Battalions, provide himself with such uniform, including a sword, and who shall appear at any muster or inspection of the Regiment or Battalion

Officers within one year must provide uniform and sword, or be superseded.

to which he belongs, without being dressed in such uniform and sword, shall be and he is hereby declared superseded.

Lieutenant Governor may appoint Regiments or Battalions of Dragoons, Artillery or Light Infantry.

XIV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor, in his discretion, to constitute Regiments or Battalions of Dragoons, Artillery or Light Infantry, separate and distinct from other Regiments or Battalions in the several Districts of this Province, to be selected from the different Regiments or Battalions therein, as the Lieutenant Governor may direct: *Provided, nevertheless,* that nothing in this clause contained, shall be construed to prevent the formation of Companies of Artillery, or Troops of Dragoons, within the limits assigned to the several Regiments or Battalions of Militia, to be independent of or attached to such Regiments or Battalions, according to such orders or directions as the Lieutenant Governor may, from time to time, make in that behalf.

Such Regiments to be subject to orders, as other Regiments of Militia.

XV. *And be it further enacted by the authority aforesaid,* That Regiments or Battalions of Dragoons, Artillery or Light Infantry, so constituted as aforesaid, shall be subject to such orders, rules and regulations, with respect to drill, inspection or other duty, as from time to time, may be issued by the Lieutenant Governor, for their efficient organization for actual service, apart from the other Regiments or Battalions of Militia in the Province.

Officers of Militia disobeying or neglecting orders, to be fined and cashiered.

XVI. *And be it further enacted by the authority aforesaid,* That any Officer of Militia, who, in time of peace, shall be guilty of wilful neglect or disobedience of orders, or of any act of insubordination, in the performance of his duty, shall, on conviction, be liable to pay a fine, not less than one pound nor more than twenty pounds, besides costs of conviction, and to be cashiered and deprived of his commission and rank in the Militia.

Militia-men neglecting to enrol, or disobeying orders, to be fined, or imprisoned in default of payment.

XVII. *And be it further enacted by the authority aforesaid,* That any non-commissioned Officer or private Militia-man, who, in time of peace, shall wilfully refuse or neglect to enrol himself, as hereinbefore provided, or who shall be guilty of wilful neglect or disobedience of orders, or of any act of insubordination or misconduct, while on parade, or engaged in the performance of Militia duty, shall, on conviction, pay a fine of not less than five shillings nor more than five pounds, over and above the costs of conviction, and in default of payment, shall be liable to imprisonment in the common gaol of the District, for a term not less than three days nor more than one month.

XVIII. *And be it further enacted by the authority aforesaid,* That the Colonel, or other Officer commanding any Regiment or Battalion of Militia

in this Province, shall have full power and authority, in time of peace, to assemble a Court, to be composed of not less than three Officers of the Regiment or Battalion under his command, one of whom at least shall be of the rank of Captain, and which Court shall have full power and authority to hear evidence and investigate all charges that may be brought against any non-commissioned Officer, or private Militia-man, for any offence or neglect of duty contrary to the provisions of this Act, and to give such judgment thereupon as they, in their discretion, shall think just and reasonable, the same being in accordance with and authorised by the enactments herein-contained.

Commanding Officers may assemble Courts in time of peace, to investigate charges brought against non-commissioned officers and privates, for offences against this Act.

XIX. *And be it further enacted by the authority aforesaid,* That the Colonel, or Officer commanding any Regiment or Battalion, shall direct a notice to be given to the Captains, or Officers commanding Companies under his command, of the time and place where such Court shall be held, at least fifteen days before the time for its assembling.

Officers commanding, to give notice of time and place of assembling of Court.

XX. *And be it further enacted by the authority aforesaid,* That after receiving such notice, and at least eight days before the meeting of such Court, Captains or other Officers commanding Companies, shall cause a notice in writing to be served on any non-commissioned officer, or private Militia-man belonging to the Company under his command, against whom it may be intended to prefer any complaint of neglect of duty or misconduct, of such non-commissioned officer, or private Militia man, requiring him to appear to answer such complaint; which notice, signed by the Captain or Officer commanding such Company, may be in the words or to the effect following:—“Mr. A. B. You are hereby required to attend before the Court appointed for the trial of Militia offenders belonging to the \_\_\_\_\_ Regiment of Militia, which will assemble at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, at ten o'clock, forenoon, to answer a charge—(for not enrolling yourself as a Militia-man, or for not attending Militia muster, or for insubordination, as the case may be.) Dated this \_\_\_\_\_ day of \_\_\_\_\_, C. D. Captain, or Officer commanding \_\_\_\_\_ Company, \_\_\_\_\_ Regiment, Militia.”

Person against whom complaint is preferred, to have notice in writing, requiring him to appear.

Form of notice.

XXI. *And be it further enacted by the authority aforesaid,* That no Non-commissioned Officer, or Private Militia-man, shall be condemned, or be liable to answer any charge preferred against him, unless it be proved at the time appointed for the trial of such charge, that he had been served with a notice as herein before provided, at least eight days before the meeting of the said Court, to appear and answer the charge to be preferred against him.

No person to be condemned, unless proved that he was served with written notice.



Court may commit  
Witnesses summoned for  
not attending.

XXII. *And be it further enacted by the authority aforesaid.* That it shall be lawful for the said Court, to command the appearance and to examine witnesses on oath, relative to any complaint that may be brought before them, and to commit the person summoned as a witness for non-attendance, as in ordinary cases of contempt.

Officers composing Court  
to receive five shillings  
per day.

XXIII. *And be it further enacted by the authority aforesaid,* That the Officers composing the said Court, shall be entitled to receive the sum of five shillings each, for each day they shall be engaged as members of the said Court.

Fees to be received for  
serving notice.

XXIV. *And be it further enacted by the authority aforesaid,* That the person who shall serve notices as herein before required, shall be entitled to receive four-pence for each mile he shall necessarily travel to effect such service, and that for every fine levied and collected under a warrant from the said Court, the person levying the same shall be entitled to the same fees as are now paid, for service of a like nature, to any Constable or Peace Officer in this Province: *Provided always,* that it shall be in the discretion of the said Court to appoint such person as they may think fit to execute the warrants or other process issued by them.

Court to appoint the  
person to execute warrant.

Judgment of said Court  
not subject to appeal.

XXV. *And be it further enacted by the authority aforesaid,* That the judgments of the said Court shall, without appeal, be carried into effect, and the fines imposed by them, shall be levied upon a warrant signed by the senior member of the Court, in the same manner as the judgments of the Justices of the Peace are carried into effect under the provisions of an Act passed in the fourth year of His late Majesty's reign; entitled, "An Act to provide for the summary punishment of petty trespasses and other offences."

Officers composing Board  
to be sworn.

XXVI. *Provided always, and be it further enacted by the authority aforesaid,* That all Officers who may be appointed to compose any Board for the trial of any offender or offenders under this Act, shall, before proceeding to the trial of such offender or offenders, take the following oath:—"I do sincerely promise and swear, that in all such matters as shall be brought before me under the Militia Laws of this Province; I will faithfully act according to the best of my judgment, agreeably to the said Laws, without favor or partiality to any person.—So help me God." Which oath may be administered by any one member to the other members of the said Board.

Oath.

XXVII. *And be it further enacted by the authority aforesaid,* That all monies arising from fines levied and collected under the provisions of this

Act, shall be paid into the hands of the Colonel or Officer Commanding the Regiment or Battalion within which the same shall have been imposed, and shall be applied under the direction of the Field Officers of such Regiment or Battalion—first, to the payment of the allowance to the members of the Court and other incidental expenses, the payment of which is not otherwise provided for—and secondly, to the purchase of colors, musical instruments, or other purposes tending to advance the discipline and efficiency of the Regiment or Battalion.

How monies to be disposed of which are collected by fines.

XXVIII. *And be it further enacted by the authority aforesaid,* That twice in each year, that is to say, on the first day of March, and the first day of September, the Colonels or Officers in command of Regiments or Battalions in this Province, shall make a return to the Adjutant General of Militia of this Province, of the number and names of persons complained against; the judgments of the Court; the amount of fines levied; and the manner in which the same shall have been distributed and disposed of.

Officers commanding Regiments, to make returns to Adjutant General of persons complained against, &c.

XXIX. *And be it further enacted by the authority aforesaid,* That in time of peace, and when any charge shall be made against any Officer of the Militia of this Province, for disobedience of orders, or any act of insubordination, or misconduct as an Officer of the Militia, it shall and may be lawful for the Lieutenant Governor in his discretion to assemble a Court Martial, (the President of which shall be a Field Officer,) to be composed of seven or more Officers belonging to one or more of the Regiments of Militia, organized or embodied within the County or District to which the accused party belongs, to investigate the charges made against such Officer, and to examine witnesses on oath, as well in support of, as against such charge, and award such sentence as in their opinion may be just and reasonable, and not inconsistent with, or contradictory to the provisions of this Act: *Provided always,* that in the appointment of Judge Advocate, the administration of oaths, and forms of proceeding to be observed by the said Courts Martial, respect shall be had to the provisions hereinafter contained for the constitution and regulation of Courts Martial, in cases where the same shall be required during the of period of actual service by any part of the Militia this Province: *And provided also,* that such sentence shall, before being carried into effect, be approved of by the Lieutenant Governor.

Lieut. Governor may assemble Courts Martial, in time of peace, for trial of Officers.

Judge Advocate to be appointed, oaths to be administered, and same proceedings to be observed as in case of Courts Martial in time of war.

Sentence to be approved by Lieutenant Governor.

XXX. *And be it further enacted by the authority aforesaid,* That in case any Officer of Militia, shall be sentenced to the payment of a fine, under the provisions of this Act, and shall make default in payment thereof, the same shall be levied by sale and distress of his effects under a warrant to

How fines to be levied, and how appropriated.

be signed by the senior Officer composing the said Court Martial, in the same manner as fines awarded against Non-commissioned Officers and private Militia-men are by this Act directed to be levied, and shall be appropriated and accounted for in the same manner as the said last mentioned fines are directed to be appropriated and accounted for.

Militia embodied to be subject to Acts of British Parliament for certain crimes

When Militiaman may be sentenced to loss of life.

Militia not to be flogged.

Lieutenant Governor authorized to issue order for assembling General Court Martial, when Militia called out on actual service.

Of whom General Court Martial to consist.

Lieutenant Governor to appoint Judge Advocate.

Oath to be taken by members of Court.

XXXI. *And be it further enacted by the authority aforesaid,* That during the time any portion of the Militia of this Province shall be embodied for actual service, under and by virtue of this Act, they and every of them, as well Officers as Privates, shall be liable and subject to all the rules, regulations, pains and penalties, of any Act or Acts of the British Parliament that are or may be in force for the punishment of mutiny, desertion, or other crimes, in the Army of Her Majesty the Queen, Her Heirs or Successors: *Provided, nevertheless,* that no Officer, Non-commissioned Officer or Private Militia-man, shall be sentenced to the loss of life, unless for desertion to the enemy, traitorous correspondence, or for traitorously delivering up to the enemy any garrison, fortress, post, or guard, or vessel, either armed or employed in the service of Government, any thing herein contained, or any statute, law or usage, to the contrary notwithstanding; *Provided also,* that no Officer, Non-commissioned Officer or Private of Militia, shall be liable to the punishment of being flogged, by the sentence of any Court Martial.

XXXII. *And be it further enacted by the authority aforesaid,* That when the Militia of this Province shall be called out on actual service, in all cases where a General Court Martial shall be required, the Lieutenant Governor, upon application to him made through the Officer commanding the body of Militia to which the party accused may belong, or in case he be the accuser or the accused, then through the next Senior Officer, shall issue his order to assemble a General Court Martial; which said Court Martial shall consist of a President, who shall be a Field Officer, and not less than eight other Commissioned Officers of the Militia: *Provided always,* that in all trials by General Courts Martial to be held by virtue of this Act, the Lieutenant Governor shall nominate and appoint the person who shall act as Judge Advocate; and that every member of the said Court Martial, before any proceeding be had before the Court, shall take the following oath before the Judge Advocate, who is hereby authorised to administer the same, viz:—"You, A. B., do swear, that you will administer justice to the best of your understanding, in the matter now before you, according to the evidence and the Militia Laws now in force in this Province, without partiality, favor or affection; and you further swear, that you will not divulge the sentence of the Court, until it shall be approved by the Lieutenant Governor; neither will you upon any account, at any

time whatever, disclose or discover the vote or opinion of any particular member of the Court Martial, unless required to give evidence thereof as a witness by a Court of Justice, in due course of law: So help you God": And so soon as the said oath shall have been administered to the respective Members, the President of the Court is hereby authorised and required to administer to the Judge Advocate, or the person officiating as such, an oath in the following words:—" You, A. B. do swear, that you will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular Member of the Court Martial, unless required to give evidence thereof as a witness by a Court of Justice, in due course of law—So help you God": And the Judge Advocate shall, and is hereby authorised, to administer to every person giving evidence before the said Court, the following oath:—" The evidence you shall give to this Court Martial, on the trial of A. B. shall be the truth, the whole truth, and nothing but the truth—So help you God": *Provided always*, that the Judgment of every such Court Martial shall pass with the concurrence of two-thirds of the Members, and shall not be put in execution until the Lieutenant Governor has approved thereof.

Oath to be taken by  
Judge Advocate.

Two-thirds of members to  
concur with judgment.

XXXIII. *And be it further enacted by the authority aforesaid*, That in cases of emergency, by actual invasion, insurrection or otherwise, when it may not be practicable to consult the Lieutenant Governor, it shall and may be lawful for the Senior Officer of Militia of any County or Riding, to call out and embody any number of the Militia he may judge necessary, for actual service, and to report the same forthwith to the Lieutenant Governor.

When Militia may be  
embodied by Senior  
Officer, without consulting  
Lieutenant Governor.

XXXIV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Lieutenant Governor, from time to time to issue orders and make regulations for the impressment and employment of Horses and Teams, for the conveyance of Troops and Stores, or for the performance of any other service, during the time the Militia of this Province, or any part thereof, shall be called out for actual service, and in like manner to make orders and regulations for the billeting of Troops of the Line and Militia on actual service, not being repugnant to the Act passed in the forty-ninth year of the reign of His late Majesty King George the Third, entitled, "An Act for quartering and billeting, on certain occasions, Her Majesty's Troops and the Militia of this Province," and to authorise the Colonels of Militia, Magistrates, or other persons to be by the Lieutenant Governor appointed for that purpose, to carry the said orders and regulations into effect.

Lieutenant Governor may  
order impressment of  
Horses and Teams for  
conveyance of Troops and  
Stores, &c., and for bil-  
leting of Troops of Line  
and Militia.

Commissions now held,  
not made void.

XXXV. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend or be construed to extend to make void any Commission now held by any Officer of Militia in this Province, or to alter or change the organization of the different Regiments of Militia now existing in this Province, until otherwise ordered and directed by the Lieutenant Governor.

Fees to be paid for  
Commissions.

XXXVI. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act the following fees shall be paid upon Commissions issued, by the Officers to whom such Commissions shall be issued—Colonels, one pound ten shillings; Lieutenant Colonels, one pound five shillings; Majors, one pound; Captains, fifteen shillings; Lieutenants and Ensigns, fifteen shillings; Paymaster, fifteen shillings; Surgeons, fifteen shillings; Assistant Surgeons, ten shillings; Quarter-Master, ten shillings; Adjutant, according to his rank.

Commissions to be trans-  
mitted to Officer com-  
manding.

Fees—how disposed of.

XXXVII. *And be it further enacted by the authority aforesaid,* That all Commissions to Officers of Militia shall be transmitted by the Adjutant General of Militia to the Colonel or Officer commanding, to be delivered to the respective Officers appointed to his Regiment or Battalion, and to whom the fees, as well as the exemption money collected from the Quakers, Menonists and Tunkers, mentioned in this Act, shall be paid, and by him shall be paid into the hands of the Receiver General of this Province, for the public uses of the same.

Half-yearly returns to be  
made of Fees.

XXXVIII. *And be it further enacted by the authority aforesaid,* That the Colonel or Officer commanding any Regiment or Battalion shall make a half yearly return to the Adjutant General of the Province, of the fees by him received, and paid into the hands of the Receiver General as aforesaid.

Officers to obtain their  
Commissions within six  
months after being  
Gazetted.

XXXIX. *And be it further enacted by the authority aforesaid,* That no Officer of Militia shall muster, or be entitled to rank as an Officer, should he fail to obtain possession of his Commission, and pay the fees thereon, within six months after he shall have been Gazetted.

Officers, Commissioned,  
and Non-Commissioned,  
may be called out for drill  
once a month.

XL. *And be it further enacted by the authority aforesaid,* That the Colonel, or Officer commanding any Regiment or Battalion, shall have full power and authority, and he is hereby authorised to call out the Officers, or non-commissioned Officers, of his Regiment or Battalion, for the purpose of drill or exercise, one day in each month, (if he shall deem it necessary,) exclusive of the days appointed by this Act for the purpose of drill or exercise.

**XLII.** *And be it further enacted by the authority aforesaid,* That the provisions of this Act shall apply to such Militia as are now embodied for actual service.

This Act to apply to Militia now embodied.

**XLII.** *And be it further enacted by the authority aforesaid,* That every person who shall sell or barter any part of the arms or equipments which may be delivered to him out of Her Majesty's stores, or who shall destroy the same, and every person who shall buy or by barter obtain such arms or equipments, shall severally and respectively forfeit and pay the sum of five pounds for every offence, on conviction thereof by the oath of any one credible witness, before two Justices of the Peace, residing within the County where the same has been committed; and in case the person so selling any part of his arms or equipments as aforesaid, or the person obtaining the same in manner aforesaid, being thereof convicted as aforesaid, shall refuse or neglect to pay the said sum of five pounds, it shall and may be lawful for the said Justices, by a warrant under their hands and seals, to commit such person to the gaol of the County or District in which the offence shall be committed, for any space of time not exceeding two months: *Provided always* that it shall and may be lawful for the said Justices to discharge the person so offending any time before the expiration of the said two months, when the person so convicted, as aforesaid, shall tender to the said Justices the penalty inflicted by this Act.

Persons selling or purchasing arms or equipments, to be fined on conviction, and on refusing to pay, may be committed.

Offenders may be discharged from imprisonment by tendering fine.

**XLIII.** *And be it further enacted by the authority aforesaid,* That if any person shall wilfully swear falsely in any proceeding or matter with respect to which he shall have been sworn, under and according to the provisions of this Act, every such person, on being lawfully convicted thereof, shall be deemed guilty of wilful and corrupt perjury, and shall suffer the like punishment as by law may now be inflicted on persons convicted of wilful and corrupt perjury.

Wilful false swearing, perjury.

**XLIV.** *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor to appoint a Commodore, who shall rank with Colonels of Militia; and also Captains and Lieutenants of a Provincial Marine, to be drilled to the exercise of heavy guns and the management of gun-boats, in addition to their duties in the use of small arms as a Militia force.

Lieutenant Governor may appoint Officers of Provincial Marine.

**XLV.** *And be it further enacted by the authority aforesaid,* That there shall be attached to every Regiment of Militia, a second or Retired Battalion, to which Officers on becoming incapable of actual service, by reason of old age, infirmity or otherwise, may be transferred on their own applica-

Non-commissioned Officers and Privates from 50 to 60 years of age, to be transferred to Retired Battalion.

tions, or by order of the Lieutenant Governor; and that all Non-commissioned Officers and privates, from the age of fifty to sixty years, shall also be transferred to the Retired Battalion.

Lieutenant Governor may sanction Volunteer Companies of Provincial Marine.

XLVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor, or Person Administering the Government, to sanction the formation of Volunteer Companies, to serve as a Provincial Marine, and to be stationed at the different harbours along the coast: each of the said Companies to consist of a Captain, a Lieutenant, an Ensign, and not less than fifty men, nor more than one hundred men.

Persons molesting the Militia, may be confined.

XLVII. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully interrupt or molest any Regiment, Battalion, Company or Detachment of Militia, whilst on any duty prescribed by the laws of this Province, it shall be lawful for the Commanding Officer of such Regiment, Battalion, Company or Detachment, to confine such person for any time not exceeding three days.

Persons exempted from Militia service.

XLVIII. *And be it further enacted by the authority aforesaid,* That except in time of actual service, the Judges of the Court of King's Bench, and Clergy; the Members of the Legislative and Executive Councils, and their respective officers; the Members of the House of Assembly for the time being, and the officers thereto belonging; Her Majesty's Attorney and Solicitor Generals; the Secretary of the Province; and all Civil officers who shall have been or may hereafter be appointed to any Civil office in this Province, under the Great Seal of the same; as well as all Magistrates, Coroners, Sheriffs and Half-pay Officers; Militia Officers having served by virtue of any Militia commission in any part of Her Majesty's Dominions, who may not have been removed for any offence as an Officer of Militia, or who may have obtained leave to resign his commission; the Surveyor General, and his deputies duly appointed, and actually engaged in public service; Deputy Post-masters, and Mail-carriers; Seafaring men actually employed in the line of their calling; Physicians, Surgeons; the Masters of public or common Schools; Ferry-men, and one Miller to every Grist-mill, shall be and are hereby excused from serving in the said Militia: *Provided always,* that this Act and the exceptions herein-contained, shall not prevent, and it is hereby declared that the same shall not be construed to prevent any or every of the above-mentioned persons from holding Commissions as Officers in the Militia in this Province: *Provided always,* that it shall and may be lawful for the Lieutenant Governor of this Province, by warrant under his hand and seal, to exempt any of the persons hereinbefore enumerated from being called out in the service aforesaid.

Persons exempted may hold Commissions.

Lieutenant Governor may exempt any person from service as a Militia-man.

XLIX. *And be it further enacted by the authority aforesaid,* That the persons called Quakers, Menonists and Tunkers, who, from certain scruples of conscience, decline bearing Arms, shall not be compelled to serve in the said Militia; but every person professing that he is one of the people called Quakers, Menonists or Tunkers, and producing a certificate of his being a Quaker, Menonist or Tunker, or of his being the son of a Quaker, Menonist or Tunker, brought up and educated in the principles of the Menonists or Tunkers, and under the age of twenty-one years, signed by the Clerk of the Meeting of such Society, or by any three or more of the people called Quakers, Menonists or Tunkers, shall be excused and exempted from serving in the said Militia: *Provided nevertheless,* that every such person who may be so excused as aforesaid, shall on or before the fourth day of June in every year, give in his name and place of residence to the Colonel or Officer commanding the Regiment within the limits of which he may reside, and pay at the same time to the said Colonel or Officer commanding, the sum of twenty shillings, currency; and in time of actual invasion, insurrection or rebellion, the sum of ten pounds; and in default of such return and payment as aforesaid, it shall and may be the duty of such Colonel or Officer commanding, to complain of such neglect or refusal, and to summon and try the party so offending, and to decide and determine upon every such case by a Regimental Court, in the same manner and form as is provided for the trial of other offenders against this Act.

Quakers, Menonists and Tunkers, exempt from serving in the Militia, on producing certificate.

Above persons to give in their names and residence to Officers commanding Regiments, and pay to them (as the case may be.)

In default of return or payment, to be tried by Regimental Court.

L. *And be it further enacted by the authority aforesaid,* That if any complaint shall be brought or commenced against any person for any thing done or to be done, in pursuance of this Act, or in execution of the powers and authorities, or the orders and directions herein-before given or granted, every such suit shall be brought or commenced within three calendar months next after the fact committed, and the defendant in such action or suit, shall and may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereon, and that the same was done in pursuance and by the authority of this Act, and if it shall appear to be done so, or if any action or suit shall be brought after the time herein before limited for bringing the same, then a verdict shall be given for the defendant.

Complaints to be brought within three calendar months next after fact committed.

LI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Lieutenant Governor to appoint a proper person to be Adjutant General of the Militia of this Province, who shall have the rank of Colonel, and do all matters and things appertaining to the said office of Adjutant General.

Lieutenant Governor may appoint Adjutant General.



Persons having been Sergeants in regular Service, not to serve in inferior stations.

LII. *And be it further enacted by the authority aforesaid,* That no person who shall have been discharged from Her Majesty's service as a Sergeant, shall be obliged to serve in any inferior station in the Militia of this Province, unless having been such Non-commissioned Officer in the said Militia, he may have been reduced according to Law.

Sergeants exempt from serving as Constables.

LIII. *And be it further enacted by the authority aforesaid,* That every Sergeant of Militia, duly appointed, shall be exempt from serving as Constable for and during such time as he shall hold such appointment as Sergeant.

Acts repealed.

LIV. *And be it further enacted by the authority aforesaid,* That an Act of the Parliament of this Province, passed in the forty-eighth year of the reign of King George the Third, entitled, "An Act to explain, amend and reduce to one Act of Parliament, the several Laws now in being for raising and training the Militia of this Province;" and also an Act passed in the fiftieth year of the said reign, entitled, "An Act for the relief of minors of the Societies of Menonists and Tunkers;" and also an Act passed in the fifty-third year of the said reign, entitled, "An Act to amend an Act passed in the forty-ninth year of His Majesty's reign, entitled, 'An Act for quartering and billeting, on certain occasions, His Majesty's Troops and the Militia of this Province, and to repeal part of the same;'" and also so much of the first section of the said Act, passed in the forty-ninth year of the said reign, entitled, "An Act for quartering and billeting, on certain occasions, His Majesty's Troops and the Militia of this Province," as relates to the payment of the owners of horses, carriages and oxen; and also an Act passed in the fifty-sixth year of the said reign, entitled, "An Act to amend an Act passed in the forty-eighth year of His Majesty's reign, entitled, 'An Act to explain, amend and reduce to one Act of Parliament, the several laws now in being for the raising and training the Militia in this Province;'" and also an Act passed in the fifty-ninth year of the said reign, entitled, "An Act to repeal part of and amend an Act passed in the forty-eighth year of His Majesty's reign, entitled, 'An Act to explain, amend and reduce to one Act of Parliament, the several laws now in being for the raising and training the Militia of this Province;'" and also an Act passed in the fourth year of the reign of King George the Fourth, entitled, "An Act to repeal part of the tenth clause of an Act passed in the forty-eighth year of His late Majesty's reign, entitled, 'An Act to explain, amend and reduce to one Act of Parliament, the several laws now in being for the raising and training the Militia of this Province;'" and also part of an Act passed in the last Session of the present Parliament, entitled, "An Act to repeal part of and amend the laws now in force for the raising and training the Militia of this Province, and to increase

the strength of the Companies of Militia,"—shall from and after the passing of this Act be and the same are hereby repealed.

## CHAP. IX.

*AN ACT to provide for the more speedy attainder of persons indicted for High Treason, who have fled from this Province, or remain concealed therein, to escape from Justice.*

[Passed 6th March, 1838.]

**WHEREAS** a wicked and unnatural Rebellion against Her Majesty hath been raised and carried on within this Province: *And whereas* divers persons who were concerned in such Rebellion have fled from this Province, or remain concealed therein, in order to escape from Justice: *And whereas* it is expedient and necessary to provide for the speedy Attainder of such persons, in order to deter others from the like high crimes and offences: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, in case any Indictment shall be found by a Grand Jury, at and before any Court of competent jurisdiction in this Province, against any person or persons for High Treason, Misprision of Treason, or Treasonable Practices, and when the Sheriff shall make return to any Warrant or Capias that may issue thereupon, that such persons, or any of them, is, or are not to be found in his District, it shall and may be lawful for the Governor of this Province, by and with the advice of the Executive Council, immediately upon the making of such return, to issue a Proclamation, to be published not less than six weeks in the Upper Canada Gazette, calling upon and requiring the person or persons against whom any such Indictment or Indictments shall have been found, to surrender himself, or themselves to the custody of the Sheriff of the District within which the Court before whom such Indictment or Indictments were found was held, by a day to be within the said Proclamation named, such day not to be less than three calendar

Preamble.

Proceedings to be had against persons indicted for High Treason, &c. against whom process shall have issued, and who may not be apprehended, and upon which the attainder of such persons shall be founded:

Proclamation to issue, calling on person indicted to surrender himself, and in default, to be adjudged attainted of the crime charged in indictment.

months, from the first publication of such Proclamation in the Gazette; and if such person or persons shall not, by the day in such Proclamation named, surrender themselves to the custody aforesaid, and submit to justice, then and in such case they, and every of them, after the day in such Proclamation named, shall stand and be adjudged attainted of the crime expressed and set forth in such Indictment or Indictments, and shall suffer and forfeit as a person attainted of such crime by the Laws of the land ought to suffer and forfeit.

Justices of Oyer and Terminer to certify indictment and return of Sheriff, that party has not been arrested, into the Court of King's Bench.

II. *And be it further enacted by the authority aforesaid,* That the Justices of all and every Court of Oyer and Terminer and General Gaol Delivery, at which any such Indictment shall be found as aforesaid, shall, upon the return of the Sheriff that the person or persons named in such Indictment is not to be found within the District of such Sheriff, certify the said Indictment, and the proceedings thereon, into the Court of King's Bench in this Province; and it shall be the duty of every such Sheriff, at the expiration of the term limited in such Proclamation, to make a return to the said Court of King's Bench, of the names of all and every such person or persons, who being named in any such Proclamation as aforesaid, shall not have surrendered themselves to the custody of the said Sheriff, pursuant to the exigency of such Proclamation, and the said Court of King's Bench shall, during the Term in or before which such last-mentioned return shall be made, direct Judgment of Attainder against all and every such person or persons to be entered on record.

Persons against whom judgment of attainder shall have been entered, may surrender himself within three months, and upon proof that such person was prevented from surrendering himself, the Court of King's Bench may reverse the attainder, and admit party to be tried, &c.

III. *Provided always, and be it further enacted by the authority aforesaid,* That if any person against whom any such Judgment of Attainder shall have been entered, shall within three calendar months next after the day of entry of such Judgment, surrender himself to the custody of the Sheriff of the Home District, and by the oath of two credible witnesses shall establish, to the satisfaction of the Court of King's Bench, that such person was actually and bonâ fide prevented from surrendering himself, pursuant to the exigency of such Proclamation, by reason of absence beyond seas, sickness, or other inevitable necessity, then and in such case, it shall and may be lawful for the said Court of King's Bench to reverse the said Judgment of Attainder, and to transmit the indictment or indictments to any Court of Oyer and Terminer, to be held in and for the District wherein such indictment or indictments was or were found; and such person, so surrendering, shall be tried for the offence charged in such indictment in like manner as if no such Judgment of Attainder had been entered.

## CHAP. X.

*AN ACT to enable the Government of this Province to extend a conditional Pardon, in certain cases, to Persons who have been concerned in the late Insurrection.*

[Passed 6th March, 1838.]

**WHEREAS** there is reason to believe that among the persons concerned in the late treasonable Insurrection in this Province, there were some to whom the lenity of the Government may not improperly be extended, on account of the artifices used by desperate and unprincipled persons to seduce them from their allegiance: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, an "Act to repeal certain parts of Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That upon the petition of any person charged with High Treason committed in this Province, preferred to the Lieutenant Governor before the arraignment of such person, and praying to be pardoned for his offence, it shall and may be lawful for the Lieutenant Governor of this Province, by and with the advice and consent of the Executive Council thereof, to grant, if it shall seem fit, a pardon to such person in Her Majesty's name, upon such terms and conditions as may appear proper, which pardon being granted under the Great Seal of this Province, and reciting in substance the prayer of such Petition, shall have the same effect as an attainder of the person therein named for the crime of High Treason, so far as regards the forfeiture of his Estate and Property, real and personal: *Provided always*, that in case a pardon shall not be granted upon any such Petition, no evidence shall be given of any admission or statement therein contained, upon any trial to be afterwards had.

Preamble.

Persons charged with High Treason, petitioning before arraignment to be pardoned, may receive a pardon if Governor and Council see fit, on such conditions as may be prescribed:

Pardon granted under Great Seal, reciting petition, to have same effect as attainder of High Treason, so far as regards forfeiture of estate, real and personal.

II. *And be it further enacted by the authority aforesaid*, That in case any person shall be pardoned under this Act, upon condition of being transported, or of banishing himself from this Province, either for life or for any term of years, such person, if he shall afterwards voluntarily return to this Province, without lawful excuse, contrary to the condition of his pardon, shall be deemed guilty of Felony, and shall suffer death as in cases of Felony.

Persons pardoned on condition of transportation or banishment, returning without lawful excuse, to suffer death.

This Act not to extend to persons who have fled, &c.

III. *And be it further enacted by the authority aforesaid, That the provisions of this Act shall not extend, or be construed to extend to such persons as have fled, and are still absent from this Province under a charge of High Treason, and for whose apprehension a reward has been offered.*

## CHAP. XI.

*AN ACT to prevent the unlawful Training of persons to the use of Arms, and to practice Military evolutions and exercises; and to authorise Justices of the Peace to seize and detain Arms collected or kept for purposes dangerous to the public peace.*

[Passed 6th March, 1838.]

Preamble.

**W**HEREAS in some parts of this Province, men clandestinely and unlawfully assembled have practised Military Training and Exercising in Arms, to the great terror and alarm of Her Majesty's loyal Subjects, and the imminent danger of the public peace: *Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That all meetings and assemblies of persons for the purpose of Training or Drilling themselves, or of being Trained and Drilled to the use of Arms, or for the purpose of practising Military Exercises, Movements or Evolutions, without any lawful authority for so doing, shall be and the same are hereby prohibited, as dangerous to the peace and security of Her Majesty's liege Subjects, and of this Province; and every person who shall be present or attend any such meeting or assembling, for the purpose of Training and Drilling any other person or persons, to the use of Arms, or to the practice of Military Exercise, Movement or Evolution, or who shall Train or Drill any other person or persons to the use of Arms, or to the practice of Military Exercise, Movement or Evolution, or who shall aid or assist therein, being legally convicted thereof, shall be liable to be confined in the public Penitentiary of this Province, for any term not exceeding two years, or to be punished by fine and imprisonment in any of the Common Gaols in this Province,*

Meetings of persons for the purpose of being drilled to the use of arms, prohibited:

Punishment of persons engaged in drilling, &c.:

for a period not exceeding two years, at the discretion of the Court in which such conviction shall be had; and every person who shall attend or be present at any such meeting or assembly, for the purpose of being, or who shall at any such meeting or assembly be Trained or Drilled to the use of Arms, or the practice of Military Exercise, Movements or Evolutions, being legally convicted thereof, shall be liable to be punished by fine, and imprisonment not exceeding two years, at the discretion of the Court in which such conviction shall be had.

Punishment of persons present at such drilling, &c.

II. *And be it further enacted by the authority aforesaid*, That it shall be lawful for any Justice of the Peace, or for any Constable or Peace Officer, or for any person acting in their aid or assistance, to disperse any such unlawful meeting or assembly as aforesaid, and to arrest and detain any person present at, or aiding, assisting or abetting, any such assembly or meeting as aforesaid; and it shall be lawful for the Justice of the Peace who shall arrest any such person, or before whom any person so arrested shall be brought, to commit such person for trial for such offence under the provisions of this Act, unless such person can and shall give bail for his appearance at the next Assizes, to answer to any Indictment which may be preferred against him, for any such offence against this Act.

Justices, &c. authorised to disperse unlawful meetings of persons, and Justices empowered to commit offenders.

III. *Provided always, and be it further enacted by the authority aforesaid*, That nothing in this Act contained shall extend to prevent any Prosecution, by Indictment or otherwise, for any thing that shall be an offence within the intent and meaning of this Act, and which might have been so prosecuted if this Act had not been made, unless the Offender shall have been prosecuted for such offence under this Act, and convicted or acquitted of such offence.

Act not to prevent prosecution by indictment, &c.

IV. *And whereas*, Arms and weapons of various sorts have, in some parts of this Province, been collected, and are kept for purposes dangerous to the public peace; and it is expedient that the Justices of the Peace should be authorised and empowered to seize and detain such arms and weapons: *Be it therefore enacted by the authority aforesaid*, That it shall be lawful for any Justice of the Peace, upon information on oath of one or more credible witness or witnesses, that any Pike, Pike-head or Spear, is in possession of any person or persons, or in any house or place, or that any Dirk, Dagger, Sword, Pistol, Gun, Rifle or other weapon, is, for any purpose dangerous to the public peace, in the possession of any person, or in any house or place, to issue his warrant to any Constable or other Peace Officer, to search for and seize any such Pike, Pike-head,

Justices of the peace authorised to seize and detain arms, &c. upon complaint on oath, that such arms are in the possession of any one, for purposes dangerous to the public peace:

Spear, Dirk, Dagger, Sword, Pistol, Gun, Rifle or other weapon, being in the possession of any such person, or in any such house or place as aforesaid; and in case admission into such house or place be refused, or not obtained within a reasonable time after it shall have been first demanded, to enter by force, by day or by night, into every such house or place whatsoever, and to detain or cause to be detained in safe custody, in such place as the said Justice shall appoint and direct, the arms and weapons so found or seized as aforesaid, unless the owner thereof shall prove, to the satisfaction of such Justice, that such arms or weapons were not kept for any purpose dangerous to the public peace.

Justices being refused admittance into houses to search for arms, may enter by force, and may detain arms kept for purposes dangerous to the public peace.

Party from whom arms are taken, may apply to General Quarter Sessions for an order for restoration.

V. *Provided always, and be it further enacted by the authority aforesaid*, That it shall be lawful for any person from whom any such arms or weapons shall be so taken as last aforesaid, in case the Justice of the Peace upon whose warrant the same shall have been taken, upon application made for that purpose, refuse to restore the same, to apply to the next General or Quarter Sessions of the Peace, upon giving ten days previous notice of such application to such Justice, for the restitution of such arms or weapons, or any part thereof, and the Justices assembled at such General Quarter Sessions of the Peace, shall make such order for the restitution or safe custody of such arms or weapons, or any part thereof, as upon such application shall appear to them to be proper.

Justices of the Peace may seize and authorise the seizure of arms, under particular circumstances:

VI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for any Justice of the Peace, or for any Constable, Peace Officer or other person, acting under the warrant of any Justice of the Peace, or for any person acting with or in aid of any Justice of the Peace, or of any Constable or other Peace Officer, having such warrant as aforesaid, to arrest and detain any person found carrying Arms, in such manner and at such times as in the judgment of such Justice of the Peace, to afford just grounds of suspicion that the same are for purposes dangerous to the public peace; and it shall be lawful for the Justice who shall arrest any such person, or before whom any person arrested upon any such warrant shall be brought, to commit such person for trial for a misdemeanor, unless such person can and shall give good and sufficient bail for his appearance at the next Assizes or General Quarter Sessions of the Peace, to answer to any Indictment which may be preferred against him.

And unless bail be given by persons carrying arms under suspicious circumstances, Justices may commit him for trial.

Concurrent jurisdiction given to justices of different Districts, in carrying this Act into effect.

VII. *And be it further enacted by the authority aforesaid*, That all Justices of the Peace in and for any District in this Province, shall have concurrent jurisdiction, as Justices of the Peace, with the Justices of any other District, in all cases, as to the carrying into execution the provisions of this Act, and as to all matters and things relating to the preservation

of the public peace, as fully and effectually as if each of such Justices was in the Commission of the Peace for each of such Districts.

VIII. *And be it further enacted by the authority aforesaid*, That any action or suit which shall be brought or commenced against any Justice or Justices of the Peace, Constable, Peace Officer, or other person or persons, for any thing done or acted in pursuance of this Act, shall be commenced within six calendar months next after the fact committed, and not afterwards; and that the venue in every such action or suit shall be laid in the proper District where the fact was committed, and not elsewhere; and the Defendant or Defendants in every such action or suit, may plead the general issue, and give this Act and the special matter in evidence, in any trial to be had thereon; and if such action shall be brought or commenced after the time limited for bringing the same, or the venue shall be laid in any other place than as aforesaid, then the Jury shall find a verdict for the Defendant or Defendants; and in such case, or if the Plaintiff or Plaintiffs shall become non-suit, or discontinue his, her or their action, after appearance, or if the Jury find a verdict for the Defendant or Defendants upon the merits, or if upon demurrer judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall have double costs, which he or they shall and may recover in such and the same manner as any Defendant can by law in other cases.

Action against Justices, &c. for any thing done under this Act, to be commenced within six months:

Other protection to Justices, &c.

IX. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, by and with the advice of the Executive Council, by Proclamation, to declare that this Act shall be no longer in force in any particular District therein specified; and from and after the period specified in any such Proclamation, the powers of this Act shall no longer be in force in such District: *Provided always*, that nothing herein contained shall prevent, or be construed to prevent, the Governor, Lieutenant Governor, or Person Administering the Government of this Province, upon such advice as aforesaid, declaring, by Proclamation, any such District to be again within the powers of this Act.

Governor may declare by Proclamation, that this Act is no longer in force in any particular District, and again to declare the same in force.

X. *Provided always, and be it further enacted by the authority aforesaid*, That no person shall be prosecuted for any offence done or committed contrary to the provisions of this Act, unless such prosecution be commenced within six calendar months after the offence committed.

All prosecutions for offences committed against this Act, to be commenced in six months.

XI. *And be it further enacted by the authority aforesaid*, That the fourth, fifth and sixth Clauses of this Act, shall continue in force during

4th, 5th and 6th clauses, to continue in force to the end of the first Session of next Parliament.



the present Parliament, and to the end of the first Session of the next Parliament, and no longer.

XII. *Provided also, and be it further enacted by the authority aforesaid, That this Act may be repealed in the whole or any part thereof, or in any manner altered and amended during the present Session of Parliament.*

Act may be altered or amended during present Session.

## CHAP. XII.

*AN ACT for indemnifying persons who since the Second of December, one thousand eight hundred and thirty-seven, have acted in Apprehending, Imprisoning, or Detaining in Custody, persons suspected of High Treason, or Treasonable Practices, and in the Suppression of Unlawful Assemblies, and for other purposes therein mentioned.*

[Passed 6th March, 1838.]

Preamble

**WHEREAS** a late armed insurrection of certain Subjects of Her Majesty, in this Province, with intent to subvert the Government, and to plunder and destroy the property of the loyal Inhabitants, has been happily subdued, but not until the insurgents had committed acts of murder, robbery and arson, and had occasioned much alarm for the peace and security of the Province: *And whereas* immediately before and during the said insurrection, and in consequence thereof, it became necessary for Justices of the Peace, Officers of the Militia, and others persons in authority in this Province, and for divers loyal Subjects of Her Majesty, to take all possible measures for apprehending, securing, detaining, and bringing to justice, persons charged or suspected of joining in the said insurrection, or of aiding and abetting the same, or of other Treasonable Practices dangerous to the peace of this Province, and the security of its Government, and also for the purpose of defeating and putting down the said insurrection, and for maintaining the peace of this Province, and securing the lives and properties of the inhabitants thereof: *And whereas* some of such acts may not have been strictly legal and formal, but it is nevertheless just and necessary that the persons doing or advising the same should be kept harmless, and indemnified against actions at law, or other proceedings with which they might otherwise be harrassed: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled,

“An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,” and by the authority of the same, That all personal actions, suits, indictments and prosecutions, heretofore brought, commenced, preferred or exhibited, or now depending, or to be hereafter brought, commenced, preferred or exhibited, and all judgments thereupon obtained, if any such there be or shall be, and all proceedings whatsoever against any person or persons, for or on account of any act, matter or thing, by him or them done or commanded, ordered or directed, or advised to be done; since the second day of December, in the year of our Lord one thousand eight hundred and thirty-seven, for apprehending, committing, imprisoning, detaining in custody, or discharging any person or persons who hath or have been imprisoned or detained in custody for High Treason, or suspicion of High Treason, or Treasonable Practices, or for apprehending, committing, imprisoning, or detaining in custody, any person or persons who hath or have been imprisoned or detained in custody, for having been so tumultuously, unlawfully and traitorously, assembled in Arms as aforesaid, or for dispersing by force of Arms any persons so assembled as aforesaid, or for suppressing the said traitorous Insurrection, and discovering and guarding against any other the treasonable proceedings aforesaid, or for the discovering and bringing to Justice the persons concerned therein, or for maintaining the public peace and the security of Her Majesty’s Subjects in their persons and property, or for supporting the Government and Constitution of this Province against the treasonable practices and proceedings aforesaid, shall be discharged and made void, and that every person by whom any such act, matter or thing, shall have been done, or commanded, ordered, directed or advised to be done, shall be freed, acquitted, discharged and indemnified, as well against the Queen’s Majesty, Her Heirs and Successors, as against all and every other person and persons.

All prosecutions heretofore brought, or hereafter to be brought, and all judgments & proceedings for or on account of any act done since 2d December, 1837, in apprehending, imprisoning, &c. persons charged with High Treason, or for other acts relating to recent Insurrection, to be made void, and parties indemnified.

II. *And be it further enacted by the authority aforesaid,* That if any action or suit shall be brought, commenced or had, in any superior Court in this Province, against any person or persons for and on account of any such act, matter or thing as aforesaid, he and they may plead the general issue, and give this Act and the special matter in evidence; and if the Plaintiff or Plaintiffs shall become non-suit, or forbear further prosecution, or suffer discontinuance in any such action or suit, or if a verdict shall pass against the Plaintiff or Plaintiffs therein, the Defendant or Defendants therein shall be entitled to double costs, for which he or they shall

For those sued, may plead general issue, and give Act in evidence:

And entitled to double costs, &c.

have the like remedy as in other cases in which costs by law are given to Defendants.

III. *And be it further enacted by the authority aforesaid,* That if any action, suit, indictment, information, prosecution or proceeding, shall be brought, commenced, preferred, exhibited or had in any Court, against any person or persons, for or on account of any such act, matter or thing, as aforesaid, it shall be lawful for the Defendant or Defendants in any such action, suit, indictment, information, prosecution or proceeding; or for any of them, to apply by motion, petition or otherwise, in a summary way, to the Court in which the same hath been or shall be brought, commenced, preferred, exhibited or had, or shall be depending, if such Court shall be sitting, and if not sitting, then to any one of the Judges or Justices of such Court, to stay all further proceedings in such action, suit, indictment, information, prosecution or proceeding; and such Court, and any Judge or Justice thereof when the said Court shall not be sitting, is hereby authorised and required to examine the matter of such application, and upon proof by the oath or affidavit of the person or persons making such application, or any of them, or other proof to the satisfaction of such Court, Judge or Justice, that such action, suit, indictment, information, prosecution or proceeding, is brought, commenced, preferred, exhibited or had, for or on account of any such act, matter or thing, as aforesaid, to make an order for staying execution and all other proceedings in such action, suit, indictment, information, prosecution or proceeding, in whatever state the same shall or may then be; and the Court, or the Judge or Justice making such order for stay of proceedings in any action or suit as aforesaid, shall also order unto the Defendant or Defendants, and he or they shall have or be entitled to double costs for all such proceedings as shall be had or carried on in any such action or suit, after the passing of this Act, and for which costs he and they shall have the like remedy as in cases where costs are by Law given to Defendants: *Provided always,* that it shall be lawful for any person or persons being a party or parties to any such action, suit, indictment, information, prosecution or other proceeding, to apply by motion, petition or otherwise, in a summary way, to the Court in which the same shall have been brought, commenced, preferred, exhibited or had, or shall be depending, to vacate, discharge or set aside, any order made by any Judge or Justice of that Court for staying proceedings, or for payment of costs as aforesaid, so as such application be made within the first four days of the Term next ensuing the making of any such order by any Judge or Justice as aforesaid, and such Court is required to examine the matter of such application, and to make such order therein, as if the application had been originally made to the said Court: *But nevertheless,* in the mean time, and until such application

Persons prosecuted, may apply to Court in which prosecution commenced, to stay proceedings, or if Court be not sitting, then to any Judge or Justice of such Court:

And to order double costs to be paid defendant:

Prosecutor authorised to apply to Court to discharge order of Judge or Justice for stay of proceedings;—application for such order to be made within first four days of next Term of the Court to which application is made.

shall be made to the said Court, and unless the said Court shall think fit to vacate, discharge, set aside, or reverse the order made by any such Judge or Justice as aforesaid, the same shall continue in full force to all intents and purposes whatsoever.

IV. *And be it further enacted by the authority aforesaid,* That all and every person or persons discharged out of custody as aforesaid, although he shall not have been discharged according to Law, shall be deemed and taken to have been legally discharged out of custody.

Persons committed upon charges, and heretofore discharged, to be deemed legally discharged.

## CHAP. XIII.

*AN ACT to authorise the appointment of Commissioners to investigate the claims of certain Inhabitants of this Province, for losses sustained during the late unnatural Rebellion.*

[Passed 6th March, 1838.]

**W**HEREAS during the late unnatural Rebellion, certain Inhabitants of this Province sustained much loss and damage, by the destruction of their Dwellings and other Buildings by the Rebels: *And whereas* it is expedient that a diligent and impartial inquiry should be made into the amount of such losses: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and Assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That it shall and may be lawful for the Lieutenant Governor of this Province, from time to time, by Commission under the Great Seal of said Province, to appoint three persons as Commissioners, whose duty it shall be to inquire into the losses so sustained by Her Majesty's Subjects, during the late unnatural Rebellion.

Preamble.

Three Commissioners to be appointed.

II. *And be it further enacted by the authority aforesaid,* That the said Commissioners, before they enter upon the execution of their Office, shall take an oath before any one of Her Majesty's Justices of the Peace, which he is hereby authorised to administer, to the following effect: "I, A. B. do swear, that according to the best of my skill and knowledge I will

Commissioners, before entering on their office, to take an oath, &c.

faithfully, impartially and truly, execute the duty of Commissioner for ascertaining the losses sustained by certain Inhabitants of this Province during the late unnatural Rebellion. So help me, God."

Authority given Commissioners to examine persons on oath, &c.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said Commissioners, and they are hereby authorised and empowered and required, to examine upon oath all persons whom the said Commissioners shall think fit to examine, and touching all such matters and things as shall be necessary for the execution of the powers vested in the said Commissioners by this Act; and all such persons are hereby directed and required personally to attend the said Commissioners, at such time and place as they shall appoint.

Commissioners to hold their meetings from time to time, and to summon persons to appear before them, and examine books, &c.

IV. *And be it further enacted by the authority aforesaid,* That the said Commissioners are hereby authorised to meet and sit from time to time at such place or places as the Lieutenant Governor or Person Administering the Government of the Province may direct, with or without adjournment, and to send their Precept or Precepts, under their hands and seals, for any person or persons whatsoever, and for such books, papers, writings or records, as they judge necessary for their information, or the execution of the powers vested in the said Commissioners by this Act; and the said Commissioners are hereby authorised to appoint and employ a Clerk and Messenger.

Punishment for false swearing before Commissioners.

V. *And be it further enacted by the authority aforesaid,* That in case any person or persons, upon examination upon oath before the said Commissioners respectively, as before mentioned, shall wilfully and corruptly give false evidence, every such person so offending, and being duly convicted thereof, shall be and is and are hereby declared to be subject and liable to such pains and penalties, as by any law now in being persons convicted of wilful and corrupt perjury are subject and liable.

Commissioners to furnish account of their proceedings to Governor, to be laid before Legislature.

VI. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall from time to time, at their discretion, or as often as they shall be thereunto required, and as soon as possible after the determination of their examination and proceedings by virtue of this Act, and without any further requisition, furnish an account of their proceedings in writing to the Lieutenant Governor, and that a copy of such proceedings may be laid before the Legislature of this Province at the then next ensuing Session of Parliament.

VII. *And be it further enacted by the authority aforesaid,* That the Clerk to the said Commissioners is hereby required faithfully to execute

and perform the trust in him reposed, without taking any thing for such his service, other than such salary or reward as the said Commissioners shall think fit to direct and appoint in that behalf.

Clerk employed by Commissioners to receive no other pay than the salary ordered by Committee.

## CHAP. XIV.

*AN ACT to amend an Act, entitled, "An Act to establish a Court of Chancery in this Province."*

[Passed 6th March, 1838.]

**WHEREAS** by an Act passed in the seventh year of the reign of His late Majesty, entitled, "An Act to establish a Court of Chancery in this Province," it is provided, that certain fees may be charged for services rendered in the said Court: *And whereas* it has been ascertained that the fees, according to the table in the said Act mentioned, have in some cases been found to be excessive: *And whereas* the said table of fees is in many instances defective: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the first day of Trinity Term next, it shall and may be lawful to and for the Vice-Chancellor, and the Judges of Her Majesty's Court of King's Bench, and they are hereby required, by order or rule, or orders or rules; to be made during the said Term of Trinity, or during any subsequent Term or Terms, from time to time, to ascertain, determine, declare and adjudge, all and singular, the fees which shall and may be taken, or be allowed to be taken, by any Registrar of the said Court of Chancery, Counsel, Solicitor or other Officer of the said Court, for or in respect of any business, after the first day of July next, to be done or transacted in the said Court of Chancery, in all matters and things; causes and proceedings, which hereafter shall or may be depending in the said Court, any former Law to the contrary notwithstanding.

Preamble.

Vice Chancellor and Judges of Court of King's Bench to settle Fees to be taken.

Fee in no instance to exceed fees mentioned in Schedule to former Act.

II. *And be it further enacted by the authority aforesaid,* That in no case shall the item of fees exceed any of the items of fees mentioned in the Schedule annexed to the Act entitled, "An Act to establish a Court of Chancery in this Province."

Vice-Chancellor may authorise Judges of District Courts to administer oath of office to Masters Extraordinary.

III. *And be it further enacted by the authority aforesaid,* That when it may not be convenient to a person appointed a Master Extraordinary, to attend at Toronto, to take the Oath of Office, it shall and may be lawful for the Vice-Chancellor to direct such oath to be taken before the District Judge of the District wherein such Master Extraordinary may reside, the same to be returned and filed in the Office of the Registrar.

## CHAP. XV.

*AN ACT to amend so much of an Act passed in the seventh year of His late Majesty's reign, entitled, "An Act to encrease the present number of the Judges of His Majesty's Court of King's Bench in this Province, to alter the Terms for the sitting of the said Court, and for other purposes therein-mentioned," as relates to Hilary Term.*

[Passed 6th March, 1838.]

Prohibit.

**WHEREAS** it is expedient to repeal so much of an Act passed in the seventh year of His late Majesty's reign, entitled, "An Act to encrease the present number of the Judges of His Majesty's Court of King's Bench in this Province, to alter the Terms for the sitting of the said Court, and for other purposes therein-mentioned," as relates to sitting of Hilary Term: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That the seventh clause of the said recited Act, passed in the seventh year of His late Majesty's reign, be and the same is hereby repealed.

7th clause of Act repealed.

II. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, the times of sitting of the said Court of

King's Bench shall be as follows, that is to say: Trinity Term shall begin on the second Monday in June, and end on the Saturday of the following week: Michaelmas Term shall begin on the first Monday in August, and end on the Saturday of the following week: Hilary Term shall begin on the first Monday in November, and end on Saturday of the ensuing week: and Easter Term shall begin on the first Monday in February, and end on Saturday of the following week.

Times at which the several Terms shall hereafter commence and end.

## CHAP. XVI.

*AN ACT to regulate the Costs of levying Distresses for small Rents and Penalties.*

[Passed 6th March, 1838.]

**WHEREAS** divers persons acting as Brokers, Constables or Bailiffs, and Distraining on the Goods and Chattels of others, or employed in the course of such Distresses, are not limited by law in the amount of their fees: *And whereas* it is proper to prevent unreasonable Fees being levied on poor Tenants and others: *Be it enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, no person whatsoever making any Distress, either for Rent or for any Penalty imposed by the laws of this Province, when the sum demanded and due shall not exceed the sum of Twenty Pounds, for and in respect of such Rent or Penalty, nor any person whatsoever employed in any manner in making such Distress, or doing any act whatsoever in the course of such Distress, or for carrying the same into effect, shall have, take or receive, out of the produce of the Goods or Chattels distrained upon and sold, or from the Tenant or other person distrained, or from the Landlord, or from any other person whatsoever, any other or more costs and charges, for and in respect of such Distress, or any matter or thing done therein, than such as are fixed and set forth in the Schedule hereunto annexed and appropriated to each act, which shall have been done in the course of such

Preamble.

Fees hereafter to be charged, and services for which the same may be charged.



Distress; and no person or persons whatsoever shall make any charge whatsoever, for any act, matter or thing, mentioned in the said Schedule, unless such act shall have been really done.

Punishment of persons who shall exact greater fees than are authorised by this Act.

II. *And be it further enacted by the authority aforesaid,* That if any person or persons whatsoever shall in any manner levy, take or receive, from any person or persons whatsoever, or retain or take from the produce of any Goods sold for the payment or satisfaction of any such Rent or Penalty, any other or greater costs and charges than are mentioned and set down in the said Schedule, or make any charge whatsoever for any acts, matter or thing, mentioned in the said Schedule, and not really done, it shall be lawful for the party or parties aggrieved by any such practice, to apply to any one Justice of the Peace for the District, City or Town, where such Distress shall have been made, or in any manner proceeded in, for the redress of his, her or their grievance, so occasioned, whereupon such Justice shall summon the person or persons complained of to appear before him, at a reasonable time to be fixed in such summons, and such Justice shall examine into the matter of such complaint by all legal ways and means, and also hear in like manner the defence of the person or persons complained of; and if it shall appear to such Justice that the person or persons complained of shall have levied, taken or received, or had other and greater costs and charges than are mentioned and fixed in the Schedule hereunto annexed, or made any charge for any matter or thing mentioned in the said Schedule, such act, matter or thing, not having been really done, such Justice shall order and adjudge treble the amount of the monies so unlawfully taken, to be paid by the person or persons so having acted, to the person or persons who shall have thus preferred his, her or their complaint thereof, together with full costs; and in case of non-payment of any monies or costs so ordered and adjudged to be paid, such Justice shall forthwith issue his warrant to levy the same by Distress and sale of the Goods and Chattels of the party or parties ordered to pay such monies or costs, rendering the overplus, if any, to the owner or owners, after payment of the charges of such Distress or Sale; and in case no sufficient distress can be had, such Justice shall, by warrant under his hand, commit the party or parties to the Common Gaol within the limits of the jurisdiction of such Justice, there to remain until such order or judgment be satisfied.

Power given to Justice: before whom complaints are made, to summon witnesses, &c.

III. *And be it further enacted by the authority aforesaid,* That it shall be lawful for such Justice, at the request of the party complaining or complained against, to summon all persons as witnesses, and to administer an oath to them, touching the matter of such complaint, or the defence against it; and if any person or persons so summoned shall

not obey such summons, without any reasonable or lawful excuse, or refuse to be examined upon oath or affirmation, (being a person by the laws of this Province entitled to affirm) then every such person so offending shall forfeit and pay a sum not exceeding Forty Shillings, to be ordered, levied and paid, in such manner, and by such means, and with such power of commitment, as is herein-before directed as to such orders and Judgment to be given the party or parties in the original complaint, excepting so far as regards the form of the order, as hereinafter provided for.

Punishment of persons refusing to obey summons.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for such Justice, if he shall find that the complaint of the party or parties aggrieved is not well founded, to order and adjudge costs, not exceeding Twenty Shillings, to be paid to the party or parties complained against, which order shall be carried into effect and levied and paid in such manner as is herein-before directed as to the order and judgment founded on such original complaint: *Provided always,* that nothing herein contained shall empower such Justice to make any order or judgment against the Landlord for whose benefit any such Distress shall have been made, unless such Landlord shall have personally levied such Distress: *And provided further,* that no person or persons who shall have been aggrieved by any Distress for any Rents or Penalty, or by any proceedings had in the course thereof, or by any costs or charges levied upon them in respect of the same, shall be barred from any legal or other suit or remedy, which he, she or they, might have had before the passing of this Act, excepting so far as any complaint to be preferred by this Act shall have been determined by the order and judgment of the Justice before whom it shall have been heard and determined, and which order and judgment shall and may be given in evidence, under the plea of the general issue, in all cases where the matter of such complaint shall be made the subject of any action.

Penalty for preferring unfounded complaints.

Justices not authorised to make order against Landlord, unless the latter shall have personally levied distress.

Party aggrieved by distress for rent, not barred of his action, unless complaint made shall have been determined by Justice.

Order of Justice may be given in evidence, under general issue.

V. *And be it further enacted by the authority aforesaid,* That such orders and judgments on such complaints shall be made in the form in the Schedule hereunto annexed, and may be proved before any Court, by proof of the signature of the Justice to such orders and judgment; and such orders as regard persons who may have been Summoned as Witnesses, shall be made in such form as to such Justice shall seem fit and convenient.

Orders and judgments to be made according to Schedule annexed.

Manner of proving such orders, &c.

Orders regarding witnesses to be in such form as Justice may direct.

VI. *And be it further enacted by the authority aforesaid,* That every Broker, Constable, Bailiff or other person, who shall make and levy any Distress whatsoever, shall give a copy of his charges and of all the costs

Persons levying distress to give copy of charges to party distrained upon.

and charges of any Distress whatsoever, signed by him, to the person or persons on whose Goods and Chattels any Distress shall be levied, although the amount of the Rent or Penalty demanded shall exceed the said sum of Twenty Pounds.

### SCHEDULE REFERRED TO IN THIS ACT.

*Form of the Order and Judgment of the Justice before whom complaint is preferred when the Order and Judgment is for the complaint.*

Schedules.

In the matter of complaint of A. B. against C. D. for the breach of the Provisions of an Act passed in the \_\_\_\_\_ year of the reign of Her Majesty Queen Victoria, entitled, "An Act [insert the title of this Act,] I, E. F. a Justice of the Peace for the \_\_\_\_\_, do order and adjudge, that the said C. D. shall pay to A. B. the sum of \_\_\_\_\_, as a compensation and satisfaction for unlawful charges and costs levied and taken from the said A. B. under a Distress for [as the case may be,] and the further sum of \_\_\_\_\_ for costs in this complaint.

(Signed) E. F.

*Form of the Order and Judgment of the Justice when he dismisses the complaint as unfounded, with or without costs, as the case may be.*

In the matter of complaint of A. B. against C. D. for the breach of the Provisions of an Act passed in the \_\_\_\_\_ year of the reign of Her Majesty Queen Victoria, entitled, "An Act [insert the title of this Act,] I, E. F. a Justice of the Peace in and for the \_\_\_\_\_, do order and adjudge, that the complaint of the said A. B. is unfounded; [if costs are given] and I do further order and adjudge, that the said A. B. shall pay unto the said C. D. the sum of \_\_\_\_\_.

(Signed) E. F.

### *Schedule of Costs and Charges on Distresses for small Rents and Penalties.*

Levying Distresses under Ten Pounds: Five Shillings.

Man keeping possession, per diem: Three Shillings and Nine-pence.

Appraisal, whether by one Appraiser or more: Four-pence in the Pound on the value of the Goods.

If any printed advertisement: not to exceed in all, Five Shillings.

Catalogues, Sale and Commission, and delivery of Goods: One Shilling in the Pound on the net produce of the Sale.

## CHAP. XVII.

*AN ACT to alter the mode of Payment of Wages to Members of the House of Assembly.*

[Passed 6th March, 1838.]

**WHEREAS** the present mode of remunerating Members of the House of Assembly is on several accounts, inexpedient: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, an "Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That each and every Member of the House of Assembly attending his duty in Parliament, and not absenting himself twenty days during a Session without leave of the House, or unless prevented by sickness, or other reasonable excuse to the satisfaction of the Speaker, from attending, shall be entitled to obtain at the close of each Session, a Warrant from the Speaker of his attendance, and on production of such Warrant, to receive the sum of fifty pounds, together with ten shillings for every twenty miles such Member may have to travel from his place of residence to the Seat of Government, and to return: *Provided nevertheless*, That if from any cause whatever, any Session shall not continue for more than thirty days, then each of the said Members shall not be entitled to receive more than twenty-five pounds for his said attendance: *Provided also*, That any Member absenting himself from his duty in Parliament for one half of a Session, unless prevented by sickness or other reasonable excuse as aforesaid from attending, shall forfeit all claim to receive any thing for such Session; and any Member absenting himself in like manner for twenty successive days, during any one Session, shall only be entitled to receive one half the sum he would have been entitled to if he had attended the whole Session.

Preamble.

Allowance hereafter to be made to Members, and manner of obtaining same:

Deduction to be made from Members who do not attend their duty.

II. *And be it further enacted by the authority aforesaid*, That the several sums of money to which the Members of the House of Assembly shall be respectively entitled under this Act, shall be paid by the Treasurers of the several Districts respectively, and shall be levied by Assessment in the manner directed by the Laws now in force for that purpose,

Wages to be paid by Treasurers of District, &amp;c.

and that the amount of all monies which shall be levied by Assessment for the payment of Wages to Members of the House of Assembly, shall be applied by the Treasurer of each District to that purpose only, and shall not be advanced or expended for any other object whatsoever.

## CHAP. XVIII.

*AN ACT to protect the Public against accidental injury from Machinery used in Mills, and for other purposes.*

[Passed 6th March, 1838.]

Preamble.

**W**HEREAS many fatal accidents have occurred, and it is necessary for the protection of the lives of the inhabitants of, and travellers in this Province, that proper and safe guards be erected in all Steam-boats, Steam-cars and Carriages, Mills, Machinery and other buildings, where Machinery is at present or may hereafter be used, so that persons conveyed in or upon said Steam-boats, Steam-cars or Carriages, or entering said Mills or other buildings where Machinery is used, should not come in contact with the Machinery when in operation: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the first day of August next, the owners of all Steam-boats, Steam-cars and Steam-carriages, Mills and other buildings, where Machinery is or may hereafter be used, shall from and after the passing of this Act, erect or cause to be erected, good and substantial guards round the Machinery of such Steam-boats, Steam-cars and Steam-carriages, Mills and other buildings, so as to prevent passengers and other persons on board of, or entering the same respectively, from coming in contact with the Machinery used therein or attached thereto.

Guards, &c. to be erected about Machinery of Steam-boats, Mills, &c. to prevent accidents to passengers and others.

Collectors of Customs authorized to examine Steam-boats, Steam-cars and Steam-carriages, and to require the erection of necessary guards.

**II.** *And be it further enacted by the authority aforesaid*, That from and after the said first day of August next, it shall be the duty of the Collector of Customs of any of the Ports within this Province, to enter into or upon

all and every Steam-boats, Steam-cars and Steam-carriages, arriving at his port or station, and carefully to examine the guards of the Machinery of every Steam-boat or Steam-carriage entering such port or station; and if the guards be not properly and substantially erected, so as to secure the safety of persons when such Machinery is in operation, the said Collector or his Deputy is to notify the same to the Master, or person in charge of such Steam-boat, Steam-car or Steam-carriage, and direct him to make the necessary and substantial guards.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be the duty of every Justice of the Peace within this Province, within the District in which he shall reside and usually act as a Justice of the Peace, to enter into or upon all buildings wherein Machinery is now or shall hereafter be erected, and inspect and examine the Machinery thereof or attached thereto; and if upon such examination, the guards used in and about such Machinery shall be found insufficient, such Justice shall notify the same to the owner or occupier of such building, and direct the necessary guards to be erected.

Justices of Peace, &c. to enter Mills, &c. and to examine, &c.

IV. *And be it further enacted by the authority aforesaid,* That in case the Master, or person in charge of any Steam-boat, Steam-car or Steam-carriage, or the owner or occupier of any building wherein Machinery is now or shall hereafter be erected, shall neglect or refuse to comply with the directions of such Collector of Customs, or Justice of the Peace, respecting them, he, she or they, so refusing or neglecting, and being thereof convicted before one or more Justice of the Peace, shall forfeit and pay for every such offence any sum not exceeding one pound; and in default of payment of such sum, with the reasonable costs of conviction, such Master, or person in charge, owner or occupier respectively, shall be sent to the Common Gaol of the District, within which such offence shall have been committed, for any period not exceeding thirty days.

Penalty in case of neglect to erect guards by Owners or Masters, &c.

V. *And be it further enacted by the authority aforesaid,* That upon the inspection of any Steam-boat, Steam-car or Carriage, and of any building wherein or whereto Machinery shall be used or attached as aforesaid, it shall appear to the Collector of Customs, or Justice of the Peace respectively, inspecting the same, that the guards to be erected in compliance with this Act are sufficiently safe and substantial, such Collector or Justice respectively, shall deliver to the person in charge of such Steam-boat, Steam-carriage or Car, and to the proprietor or occupier of such building as aforesaid, a certificate to that effect; and such certificate shall for six calendar months from the date thereof, be a good and sufficient protection

Collector or Justice to deliver certificate of sufficiency of guards, &c.

Certificate to afford protection for six months.

to the Masters and owners, and occupiers of such Steam-boat, Steam-carriage or Car, and building respectively, as aforesaid, against any penalty to be incurred under the provisions of this Act: *Provided*, that such safe-guards shall at all times be kept in good and sufficient repair.

## CHAP. XIX.

*AN ACT to authorise the establishment of Boards of Boundary Line Commissioners within the several Districts of this Province.*

[Passed 6th March, 1838.]

Preamble.

**W**HEREAS the errors or defects in Surveys heretofore made within this Province, are found to occasion disputes and differences between individuals, touching the boundaries of Townships, Concessions and Lots, and to involve parties in expensive litigation: *And whereas*, it is expedient to provide a remedy for these evils, by the appointment of Commissioners in every District, with the powers and under the restrictions hereinafter expressed: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the Lieutenant Governor of this Province, to nominate and appoint three fit and proper persons in each and every District of this Province, (one of whom shall be a Licensed Surveyor,) to form a Board, to be known by the style and title of "The Boundary Commissioners" of the District for which they shall be so respectively appointed; and the said Commissioners for the time being, shall have power and authority, and are hereby authorised and required to hear and determine all matters of dispute touching any line or lines, boundary or boundaries, of any Township, Concession or Lot, and of any part or parts of any lot or lots within their respective Districts, and to ascertain, fix and determine, such lines, boundaries or divisions, as shall appear just and reasonable, and to give and pronounce such judgment and decree therein, and to award execution thereupon for such costs as shall, by the said Commissioners, be ascertained to have been reason-

A Board to be established in each District, to be styled the Boundary Commissioners;

Its jurisdiction:

ably incurred, against the goods and chattels of all and every the person and persons whom they shall decree to pay the same, as to them or any two of them shall seem just in law or equity; and that the acts, orders, judgments and decrees, of the said Commissioners, or any two of them, shall be final and conclusive between the parties, their heirs and assigns, except in cases of appeal, to be brought within the time and in the manner hereinafter mentioned: *Provided always*, that the said Commissioners shall be appointed and hold their office during the pleasure of the Lieutenant Governor, and no longer.

Its orders final; subject to appeal.

The Commissioners to be appointed during pleasure.

II. *Provided always, and be it further enacted by the authority aforesaid*, That it shall not be lawful for any Commissioner to be appointed under the provisions hereinbefore contained, to act in any case that shall be heard and determined under the provisions of this Act, wherein such Commissioner, his father or mother, brother or sister, or child, or any relation of his wife, in the same degree of consanguinity, shall be directly or indirectly interested; but then and in such case, the place of such Commissioner so interested, by himself or his relatives as aforesaid, shall be supplied by a Commissioner to be selected by the Commissioners of the District wherein such case shall arise, and who shall not be interested therein, from the Commissioners appointed for a District adjoining thereto; and such last-mentioned Commissioner shall be duly summoned, and shall be bound to attend the sittings of the Board for the District wherein such case shall arise, and shall have the same powers, in all respects touching such case, as if he had originally been appointed a Commissioner for such District, instead of a Commissioner for an adjoining District.

Commissioners not to act, if related to any party interested.

Substitute for such Commissioner to be selected, and how.

III. *And be it further enacted by the authority aforesaid*, That in all cases which shall arise touching the boundary line between any two or more Districts, the Commissioners appointed for each of the Districts interested in such case, shall be summoned and required to hear and determine all matters of dispute touching the same; and no decision shall be binding on any District interested therein, unless a majority of the Commissioners to be appointed for each such District shall have been present at every sitting to be holden for the purpose of hearing and determining such dispute; and the acts, orders, judgments and decrees, of such united Board of Commissioners, or the majority of the Commissioners present at such sitting, shall be final and conclusive between the Districts interested in such dispute, except in cases of appeal, to be brought within the time and manner hereinafter mentioned.

Mode in which questions respecting boundary lines between Districts are to be determined.

Appeal.

IV. *And be it further enacted by the authority aforesaid*, That the inhabitants of any Township or Concession, owner or owners of any lot



Form of proceeding to be pursued by owners of Freehold seeking redress before the Commissioners.

Commissioners to issue Warrant.

Where their sittings are to be held.

Adjournments.

Decision to be made within six months from issuing of Warrant.

A view shall be had, if required.

Survey and map to be filed with judgment.

Witnesses to be summoned and sworn.

or lots, either in fee or for any less estate of freehold, who shall require redress touching the boundary or boundaries thereof, or any part thereof, shall give notice in writing to any one or more of the Boundary Commissioners of the said District, requiring them to hear and determine the questions affecting the same; and the said Commissioners, or any one or more of them, shall, within ten days from the receipt of such notice, issue a warrant or precept to the person or persons interested in the matter, to attend the said Board, at some place and on some day in the said warrant or precept to be named, not exceeding twenty-one days from the receipt of the said notice, and which said warrant or precept shall be in the words or to the form and effect set forth in the schedule to this Act annexed.

V. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall, in all cases, hold their sittings at the most convenient spot near to the disputed boundary or boundaries, not in any case exceeding the distance of ten miles from the same.

VI. *And be it further enacted by the authority aforesaid,* That whenever any party interested in the matter shall apply for an adjournment, it shall and may be lawful for the said Commissioners, on sufficient reason being shewn to them, upon oath and upon payment of reasonable costs by the party applying for such adjournment, to adjourn the sitting of the said Board, from time to time, and to any day not exceeding twenty days from the day of sitting: *Provided always,* that the decision of every question shall be made within six months from the issuing of the original warrant or precept for hearing the same.

VII. *And be it further enacted by the authority aforesaid,* That previous to the hearing of any question, under the provisions of this Act, the said Commissioners shall, if required by any of the parties interested, proceed to and view the boundary or boundaries in dispute, in their own proper persons; and it shall be lawful for them, and they are hereby required, to employ a competent Surveyor to make a survey and map thereof, which map shall be annexed to and filed with their judgment and decisions, as hereinafter provided.

VIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Commissioners, or any one or more of them, to summon any person or persons resident in such District, or in a District immediately adjoining thereto, to give evidence touching any matter upon which they shall be required to adjudge and determine under the provisions of this Act, and to produce any papers or documents in their possession relative thereto; and for the better discovery of the truth, and

the more solemn determination thereof, it shall and may be lawful for the said Commissioners assembled at any Board, and they are hereby authorised and empowered, to administer or cause to be administered, an oath or oaths as well to the party complaining as to the party answering, and to such witness or witnesses as shall be examined or produced by either party; and also to all or any of the persons who shall be employed under the said Board, and to all other persons whomsoever, for or concerning any business relative thereto, and to take the affirmations of all person whomsoever concerning the same, who are or shall be of the people called Quakers, or such other denomination of Christians as are allowed to give their evidence on affirmation: *Provided*, that the said Commissioners shall in no case give judgment on the oath or affirmation alone of any party interested in any matter to be heard by the said Board, unless there shall be sufficient other evidence to warrant such judgment, independent of such oath or affirmation.

No judgment to be given on the evidence of interested party only.

IX. *And be it further enacted by the authority aforesaid*, That all evidences to be taken before the Commissioners shall be reduced into writing, and be read over and signed by the persons giving the same, and such persons shall be required to attest the same upon oath or affirmation as aforesaid, and the same evidence shall be kept by the Commissioners, ready to be produced upon any appeal to be brought against the judgment or decision of the said Commissioners, as hereinafter is provided.

Evidence to be taken in writing, and signed.

X. *And be it further enacted by the authority aforesaid*, That all copies of plans, descriptions, instructions, field-notes or other evidences of Survey, and all other documents of a public character, certified by the Surveyor General, or person in charge of the Office of Surveyor General for the time being, or by the person in charge for the time being of any other Public Office, in which any such documents may be deposited, shall be admissable in evidence before such Commissioners, or upon any other Judicial proceeding under this Act, in the same manner, and no other, as if the same were proved by evidence given vivà voce: *Provided always*, that it shall be the duty of any person employed in any Public Office in this Province to answer upon oath, to be administered before any Commissioner for taking Affidavits in the Court of King's Bench, any questions which the Commissioners to be appointed under this Act shall in writing require to be answered; and that the evidence obtained in such manner shall be received as if given vivà voce before the Commissioners: *Provided* it be made appear to their satisfaction, that the parties interested have had a reasonable opportunity afforded to them of proposing questions by way of cross-examination.

What documentary evidence to be admissible.

Affidavits of persons in public offices to be received, provided opportunity given of cross-examination.

XI. *And be it further enacted by the authority aforesaid*, That if any person shall wilfully and corruptly swear falsely in any matter deposed

False swearing perjury

under this Act, either vivâ voce or by way of answer in any written deposition, such false swearing shall be deemed to be perjury.

XII. *And be it further enacted by the authority aforesaid,* That in case any action or suit shall hereafter be brought in any of the superior Courts, touching any question which might have been tried and decided before the said Commissioners, it shall and may be lawful for the defendant in such action to apply to the said Court, or to a Judge thereof in vacation, who shall, upon proof of the facts, upon affidavit to be duly sworn and laid before the said Court, or before such Judge as aforesaid, grant a rule of the said Court for the stay of all proceedings in such action, and for payment of the costs of and attending such rule by the Plaintiff in such action or suit, unless it shall appear to the Court or Judge, upon hearing the parties, their counsel or attorney in reply, that from the nature and circumstances of the question in dispute, it shall have been a proper case in the first instance to have been instituted in the superior Court.

Party sued in superior Court, may apply to Court or Judge to stay proceedings:

Under what circumstances.

Party at whose instance warrant issued, making default in appearance, how dealt with.

Costs.

XIII. *And be it further enacted by the authority aforesaid,* That if the party at whose instance such warrant or precept shall have been issued as aforesaid, shall neglect or fail to appear at the sitting thereby directed to be held as aforesaid, or at any other sitting to be holden under the provisions of this Act, either in person or by Counsel, at which his presence shall be required, or shall otherwise make default therein, it shall and may be lawful to and for the said Commissioners, and they are hereby authorized and empowered to ascertain the Costs incurred therein, as well by such party as by the respondent; and the same Costs shall be recoverable from the party making such default, in the manner herein-before directed with respect to costs on judgment or decree.

Respondent making default,

Judgment to be given against him.

XIV. *And be it further enacted by the authority aforesaid,* That if the party respondent shall, in like manner, make default in appearing, either in person or by counsel, after he shall have been served with such warrant or precept as aforesaid, the same having been served at least four days previous to the day of sitting; and due proof upon oath having been given of such service, it shall and may be lawful to and for the said Commissioners to proceed to judgment, and decree in the matter in dispute in such and the same manner in all respects as if the respondent were personally present.

Appeal to King's Bench or Court of Chancery, within what time, and how.

XV. *And be it further enacted by the authority aforesaid,* That in case any person or District shall be dissatisfied with the judgment of the said Commissioners, it shall and may be lawful for him or them, at any time not exceeding six months from the date of such judgment or decree, (upon

giving fourteen days notice in writing of his intention to the party in whose favour such judgment shall have been given, and to the said Commissioners, who shall thereupon transmit to the proper officer of the Court, for the use thereof, a copy of their judgment, together with the said plan hereinbefore directed to be made, and the evidence taken before them the said Commissioners,) to appeal therefrom to the Court of King's Bench, or to the Court of Chancery of this Province, in the option of the parties; and the Vice Chancellor, or Judges of the said Court of King's Bench, are hereby authorised and empowered to revise, alter, affirm or annul, the decision of the said Commissioners, or to order such farther enquiry to be made, or if he or they shall see fit to direct an issue to be tried at law, touching the matter in dispute, and to make such orders and directions therein for payment of costs and other matters respecting the same, as to him or them shall seem just and reasonable; and the decree of either of the said Courts, to be given on such appeal, shall be binding and conclusive on all parties, their heirs and assigns, and on all Districts, and on all persons claiming or to claim by or under them or any of them.

Court of King's Bench, or Chancery may revise or alter, &c. the decision of the Commissioners :

Or may direct an issue, and order payment of costs.

Decree final.

XVI. *Provided always, and be it further enacted by the authority aforesaid,* That if any appeal appear to either of the said Courts to be frivolous or vexatious, it shall and may be lawful for either of the said Courts to award such extra costs, to be paid by the Appellant, as to either of the said Courts shall appear reasonable.

If appeal frivolous, the Court may order extra costs.

XVII. *And be it further enacted by the authority aforesaid,* That every judgment and decision of the said Commissioners, in case there be no appeal against the same, shall be filed on the Records of the said Court of Chancery, within one calendar month from the expiration of the time of appealing against the same, together with the said Plan of the boundaries hereinbefore directed to be made; and the Judgment and Decree, and all orders of the said Courts of King's Bench and of Chancery, establishing any line or lines of boundary upon any such appeal, shall, together with said Plan, be filed with the Register of the County where such boundaries shall be situate, within six months after the determination and pronouncing of the same; and the said Registrar shall be entitled to a fee of one shilling and three pence, and no more, for entering the same of record; and a copy of the said Map, duly authenticated, and of all Judgments, Decrees and Orders, affecting any line or lines of boundary, shall in like manner be filed in the Office of the Surveyor General of this Province, for public use and reference; and such final Order, Judgment or Decree, shall in all cases be published three times in the Gazette of this Province, and in a Newspaper of the District wherein such line

Where no appeal, the Judgments of the Commissioners to be filed, together with plan, &c. in the Court of Chancery, and within what time.

Judgments, &c. to be filed with Registrar of County, and where.

Registrar's Fee.

Copy of Plan, Judgment, &c. to be filed in Surveyor General's Office.

Final Judgment to be published in Gazette, &c.

shall be, if a Newspaper shall be published therein, and if not, in the Newspaper of the adjoining District.

Commissioners' surveys,  
what to express.

XVIII. *And be it further enacted by the authority aforesaid,* That the Commissioners in all Surveys made by them, or under their direction, shall express the courses of lines according to the bearing of the compass, and also according to the true meridional line.

Where boundaries  
established, Commission-  
ers to place stone  
monuments.

XIX. *And be it further enacted by the authority aforesaid,* That as often as any lines or boundaries shall be finally established by the Commissioners under this Act, it shall be their duty to cause sufficient Stone Monuments to be placed to mark such boundaries; and to award the expense thereof to be paid by the parties, or either of them, as they may think just, and to enforce the payment thereof in the same manner as of costs and other expenses under this Act.

Expense thereof provided  
for.

Commissioners' fees.

XX. *And be it further enacted by the authority aforesaid,* That the said Commissioners shall be entitled to receive the sum of twenty shillings each, and no more, for every day they shall be occupied in travelling to, or returning from, and sitting at any place, for the purpose of hearing and determining any matter under the provisions of this Act; and every Surveyor who shall be employed by the said Commissioners shall be entitled to receive the sum of twenty shillings for every day he shall be necessarily employed as aforesaid, and that for the purposes of this Act a day shall be construed to be eight hours, and no less.

Surveyor's fees.

Expenses of settling  
Boundary Lines between  
Towns and Townships;

XI. *And be it further enacted by the authority aforesaid,* That the costs, charges and expenses, attending the settling any boundary lines between any Towns or Townships in this Province, not being for the mere decision of a dispute between private parties, shall be borne and paid out of the District Funds of the District wherein such Towns or Townships lie; and the costs, charges and expenses, attending the settling of any boundary line between any Districts, shall be equally borne and paid out of the District Funds of the Districts the boundary lines between which have been settled: *Provided* that the District shall in no case be liable to the costs of any proceeding or appeal which shall not have been instituted at the instance of the Court of Quarter Sessions in and for the said District; and the said Court of Quarter Sessions are hereby empowered, when they shall see fit, to appoint a proper person to act in behalf of the District before the said Board of Commissioners, and the District which such person shall so represent shall be bound by his acts, deeds and defaults, in the same manner as he himself, his heirs and assigns, would be bound if personally interested in the premises.

And between Districts,  
provided for.

Where District not to be  
liable for costs.

Quarter Sessions to  
appoint proper person  
to act on behalf of  
District before Commis-  
sioners, and to be bound  
by his acts.

XXII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Justices of any District, in Quarter Sessions assembled, to levy by assessment, to be made in the same manner and form as by Law any assessment now or hereafter may be levied, for any public purpose in any District of this Province, such sum and sums of money as shall be requisite to pay the costs and charges to arise, touching the disputed boundary or boundaries of such District; and the costs and charges of any appeal that shall be made to the decree of the said Commissioners, pursuant to the provisions herein before contained, so as that the amount of the Assessment to be made shall not exceed the one-eighth part of a penny per acre, in any one year.

Costs of District to be levied by assessment.

Amount of rate.

XXIII. *And be it further enacted by the authority aforesaid,* That upon entering upon the duties imposed and required by this Act, the said Commissioners, and each of them, shall take and subscribe the following oath, which any Justice of the Peace is hereby authorised and required to administer. I, A. B., do hereby swear, that I will faithfully and to the best of my skill and understanding, discharge the duties of one of the Boundary Commissioners of the District of ———, according to the Statute in such case made and provided.

Commissioners' oath.

XXIV. *And be it further enacted by the authority aforesaid,* That in the proceedings of the said Commissioners the annexed forms shall be used.

Form of Proceedings.

XXV. *And be it further enacted by the authority aforesaid,* That this Act shall be and continue in force for and during the term of four years, and from thence to the end of the then next ensuing Session of Parliament, and no longer.

Act in force four years.

*Form of Warrant or Precept.—Boundary Commissioners.*

District of ——— } You are hereby summoned and required to be and  
 } appear before the Boundary Commissioners of the  
 District of ———, at a Board to be held at ———, in the Township of  
 ———, by ——— of the clock in the forenoon of ——— the ——— day of ———,  
 to answer the claim of ———, touching the line of boundary between  
 lots ——— and ———, belonging to you and the said ———. Herein fail  
 not as judgment will be given against you for default.

Warrant.

Witness my hand this ——— day of ———, eighteen hundred and ———.

A. B.

Commissioner.

To Mr. ———.

*Form of Subpœna.—Boundary Commissioners.*

Subpœna

District of —, } Between C. D. Claimant, E. F. Respondent,  
 } You are hereby summoned and required to be and ap-  
 appear before the Boundary Commissioners of the District of —, at a  
 Board to be held at —, in the Township of —, on the — day  
 of —, at — of the clock in the forenoon, to testify the truth accord-  
 ing to your knowledge, in a certain claim then and there to be tried,  
 between — Claimant, and — Respondent, on the part of the  
 —. Herein fail not at your peril. Witness A. B., one of the Com-  
 missioners, this — day of —, eighteen hundred and —.

A. B.

*Commissioner.*

To Mr. —

*Form of Warrant to Levy.—Boundary Commissioners.*

Warrant to levy.

District of —, } You are hereby authorised and required to make of the  
 } goods and chattels of —, in the said District, the  
 sum of —, Provincial Currency, to satisfy the costs of a Judgment  
 given by the said Commissioners, at a Board held on the — day of  
 —, at the suit of —, in the claim heard between the said —  
 and —, and should there be any overplus, after deducting the legal  
 expense of the seizure and sale, you are to return the same to the said  
 —, and you are to certify to the said Commissioners, on the —  
 day of —, what you shall have done in the execution thereof. Herein  
 fail not.

Witness

A. B. }

G. H. }

J. K. }

*Commissioners.*

To —

our Bailiff.

Costs. . . . .£

Bailiff's fees

*Form of Oath to be administered.*

Oath of Witnesses.

The evidence which you shall give to the Commissioners touching the  
 matter now upon inquiry, shall be the truth, the whole truth, and nothing  
 but the truth. So help you, God.

## CHAP. XX.

*AN ACT to postpone the Sale of Lands in arrear for Taxes.*

[Passed 6th March, 1838.]

**W**HEREAS large quantities of land within several Districts of this Province are advertised to be sold for arrears of Rates and Assessments: Preamble.  
*And whereas*, under the peculiar circumstances of this Province, it is desirable that the sale of lands in arrear, and now advertised, or about to be advertised for sale, should be postponed: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That no lands in arrear for taxes, and advertised for sale, or liable to be advertised for sale, or liable to be sold, shall be exposed to sale during the year of our Lord one thousand eight hundred and thirty-eight: *Provided always*, that from and after the expiration of the said year eighteen hundred and thirty-eight, the same proceedings shall be taken and adopted which by Law it is now provided shall be pursued before any lands shall be sold, any Law of this Province to the contrary notwithstanding. Sales of Land now liable for arrear of Taxes, postponed till expiration of the year. Same proceedings as though no such postponement.

## CHAP. XXI.

*AN ACT to alter and amend sundry Acts regulating the appointment and duties of Township Officers.*

[Passed 6th March, 1838.]

**W**HEREAS it is expedient that the several laws now in force relative to the appointment and duties of Township Officers, and the mode of notifying and holding Township Meetings, except an Act passed in the fourth year of the reign of King William the Fourth, chapter twelve, entitled, "An Act to regulate Line Fences and Water Courses," and to repeal so much of an Act passed in the thirty-third year of the reign of Preamble. Laws relating to Township Officers, with certain exceptions, repealed.



His late Majesty King George the Third, entitled, "An Act to provide for the nomination and appointment of Parish and Town Officers within this Province," as relates to the office of Fence-viewers being discharged by Overseers of Highways and Roads," should be repealed and reduced into one Act of Parliament: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That an Act passed in the fifth year of the reign of King William the Fourth, entitled, "An Act to reduce to one Act of Parliament the several laws relative to the appointment and duties of Township Officers in this Province, except an Act passed in the fourth year of the reign of William the Fourth, chapter twelve, entitled, 'An Act to regulate Line Fences and Water Courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, entitled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province, as relates to the office of Fence Viewers being discharged by Overseers of highways and roads;'; An Act passed in the sixth year of the reign of King William the Fourth, entitled, 'An Act to amend and extend the provisions of an Act passed during the last Session of the Provincial Legislature, entitled, 'An Act to reduce to one Act of Parliament the several Laws relative to the appointment and duties of Township Officers in this Province, except an Act passed in the fourth year of the reign of William the Fourth, chapter twelve, entitled, 'An Act to regulate Line Fences and Water Courses, and to repeal so much of an Act passed in the thirty-third year of the reign of His late Majesty King George the Third, entitled, 'An Act to provide for the nomination and appointment of Parish and Town Officers within this Province as relates to the office of Fence Viewers being discharged by Overseers of Highways and Roads;'; and an Act passed in the seventh year of the reign of King William the Fourth, entitled, 'An Act to amend the Laws for the appointment of Parish and Township Officers"; *Provided always*, that any prior Act or enactment repealed by any of the Acts hereinbefore recited, shall be and remain repealed.

Repealing clauses of Acts repealed to remain in force.

Two Magistrates may issue warrant, giving ten days notice to Clerk of

II. *And be it further enacted by the authority aforesaid*, That from and after the passing of this Act, it shall and may be lawful for any two of Her Majesty's Justices of the Peace, acting within the division in which any

Parish, Township, reputed Township or place may be, to issue their warrant, giving not less than ten days previous notice to the Township Clerk of such Parish, Township, reputed Township or place, authorising him, on the first Monday in January in each year, to assemble the inhabitant Freeholders and Householders, paying or liable to any public Assessment or rate of such Parish, Township, reputed Township or place, at such place as may be appointed by the Magistrates in their said warrant, for the purpose of choosing or nominating the Parish or Township Officers hereinafter mentioned, to serve in their respective office one year from the time of their being so chosen; at which meeting the Town Clerk of said Town or Township shall preside, until a Chairman be chosen: *Provided always*, that such Township meeting shall be held in the Township Hall, if there be such public building in the Township out of the limits of any Incorporated Town, or Town having Police Regulation.

Township to assemble certain persons for the purpose of choosing Township Officers for one year.

Town Clerk to preside until Chairman be chosen.

Meeting to be held in Township Hall.

III. *And be it further enacted by the authority aforesaid*, That in case the Township Clerk of any Parish, Township or reputed Township, shall neglect or refuse to assemble the said inhabitant Freeholders and Householders at the time and place appointed in the warrant aforesaid, the said inhabitant Freeholders and Householders may nevertheless lawfully meet and choose a Chairman, and transact all such public business as is provided by this Act; and after the Township Officers have been chosen and appointed at said meeting, the Township Clerk then and there chosen shall proceed upon the duties of his office, as provided by this Act.

If Town Clerk neglect to assemble as aforesaid, inhabitants may lawfully meet and transact the business authorised by this Act; and Township Clerk shall proceed upon duties of his office.

*Form of Justices' Warrant to Assemble the Inhabitants of—District.*

“To the Township Clerk of the Township of—in the said District.”

By virtue of the power for such purposes granted by an Act of the Legislature, made and passed in the——, to us A. B. and C. D. Esquires, two of Her Majesty's Justices of the Peace in and for the said District: These are to authorise and require you, giving at least eight days previous notice, by affixing the same in at least three public places within the said Parish, Township or place, to assemble the inhabitant Freeholders and Householders living within your Parish or Township, to meet at——on the first Monday in January next, being the——of January next, at the hour of twelve o'clock noon, for the purpose of choosing and nominating certain fit and proper persons to serve as Township Officers for the ensuing year, according to the directions in the said Act contained.

Form of warrant.

Given under our hands and seals, at——, on the——day of——, 18——

“*Township Clerk's Notice to assemble the Inhabitants of—District.*”

WHEREAS by virtue of a warrant from——and——, Esquires, two of Her Majesty's Justices of the Peace, to assemble the Inhabitants of the Town-

Township Clerk's notice.

ship of——on Monday, the——day of January next, at——, for the purpose of choosing and nominating Township Officers for the ensuing year. Notice is hereby given, that the annual Township meeting, of the Township of——, will be holden at——, on Monday, the——day of January——, at the hour of twelve o'clock noon, accordingly.

*Dated*—— ———, *Town Clerk.*

IV. *And be it further enacted by the authority aforesaid,* That no person shall be qualified to vote at any Township meeting under the provisions of this Act, except he be a Freeholder or Householder in such Township, of the full age of twenty-one years ; and that all public matters and questions at such Township meeting shall be decided by the majority of the inhabitant Freeholders and Householders of the Township then and there present ; that any person voting or offering to vote at any such Township meeting as aforesaid, not being duly qualified by law to vote, shall be subject and liable to a penalty of not less than five shillings, or more than twenty shillings, to be recovered with costs, on complaint of two witnesses, by a warrant of one Magistrate, the said fine to be paid over to the Town Clerk, and to be expended on the Roads in said Township : *Provided*, the complaint shall be made to the Court having jurisdiction of similar offences within three months thereafter, unless it shall appear to the Court that the person so offending shall not have had his vote objected to at the time of his voting, and that the offence was committed through his ignorance of the law upon this subject.

Freeholders and householders entitled to vote, if of twenty-one years of age.

All questions decided by majority.

Persons offering to vote without authority liable to fine.

Fine to be paid to Town Clerk, and expended on roads.

Complaint to be made within three months.

Election of officers.

V. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the inhabitant Freeholders and Householders at such Township meetings to choose one Clerk of said Town or Township ; one Assessor ; one Collector ; a sufficient number of persons to serve as Pound-keepers, Overseers of Highways, and also three Town Wardens for the said Township : *Provided always*, that should the inhabitant Freeholders and Householders of any Township within this Province, from any cause whatever, neglect or refuse to assemble and appoint any particular Officer or Officers for the year as aforesaid, then and in such case the Officers of the Township for the preceding year, or such of them as shall not be relieved by the appointment of other Officers as their successors, shall continue and remain in office for the succeeding year, and shall have the same powers and be subject to the same responsibilities as if they had been chosen to such office in the usual manner ; and that no Magistrate shall be liable without his consent to serve in any Township office : *Provided always*, that no person shall be compelled to serve in any of the aforesaid offices in any Township in which he doth not reside, except in such cases where two Townships are joined in one

When Officers are not chosen, those of the preceding year to serve.

Magistrates not liable to serve.

Persons not liable to serve out of the Township, except in certain cases, nor oftener than once in three years.

Township meeting, nor shall be elected to serve in any Township office oftener than once in three years, unless he shall consent thereto: *Provided also*, that where any Town in any Township in this Province shall be incorporated, or have Police Regulations established therein, no annual Township meeting; for the purpose among other things of electing Township Officers shall be held in any such Town, but that the said annual Township meeting shall be holden in such convenient place out of such Town as the Magistrates in their warrant shall appoint.

Township meetings not to be held in certain Towns.

VI. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the inhabitant Freeholders and Householders in any newly settled Township, in which no regular Township Meeting has been by Law hitherto holden, to hold Township Meetings for the purpose of appointing persons to serve in the different offices for the Township, mentioned in this Act, so soon as such new Township shall contain thirty inhabitant Freeholders or Householders: *Provided always*, that where a Township doth not contain thirty inhabitant Freeholders and Householders, such inhabitants shall be taken and reputed as inhabitants of such Township adjacent, which, in the opinion of the Magistrates granting the Warrant, may be deemed most convenient for the new Township.

Township containing thirty householders may hold meetings.

Township not containing thirty inhabitant freeholders, to be reputed as belonging to Township adjoining.

VII. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the Clerk appointed as aforesaid to any Township, to record all such matters as shall be lawfully transacted at such meetings, all other matters relating to the Township which by virtue of his office it shall be his duty to record; which record, together with all other records, papers, monies unexpended, and property, belonging to the Township which may come into his hands by virtue of his office, shall be faithfully kept and preserved by such Clerk, and by him delivered over to his successor duly appointed.

Clerk to record all matters transacted at such meetings.

Record to be kept by Clerk, and delivered over to successor in office.

VIII. *And be it further enacted by the authority aforesaid*, That it shall be the duty of every Township Clerk appointed agreeably to the provisions of this Act, to make out two copies from his record of the proceedings of the meeting at which he was appointed Clerk for the Township, within twenty days after his appointment, one of which he shall post up in a conspicuous manner at the place where the meeting was held, and deliver the other, with a copy of the account current of the Township for the preceding year, to the Clerk of the Peace for the District; and it shall be duty of the Clerk of the Peace to file in his office all such copies as may be transmitted or delivered to him by the respective Township Clerks in each and every year, which shall be and remain in his office as a record, and shall be open to the inspection of every person desiring it, on payment

Clerk to make out two copies of proceedings within twenty days after his appointment.

How copies disposed of.

Clerk of Peace to file copies of records, to be open to inspection, on payment of one shilling and three-pence.

Township Clerk to be fined, if neglectful.

of one shilling and three pence to the Clerk of the Peace, as his fee for his trouble in making such search; any Township Clerk who shall be lawfully chosen and appointed at any such Township meeting, and who shall have accepted or taken upon himself the said office, and shall not have delivered to the office of the Clerk of the Peace the documents hereinbefore mentioned, within the said period of twenty days as aforesaid, such said Township Clerk shall forfeit and pay the same sum as persons refusing to subscribe the declaration in the Clerk's book as hereinafter provided; to be expended upon the Roads in said Township, to be levied by warrant of any Justice of the Peace in the District, upon complaint of the Clerk of the Peace or any other person; and any two Magistrates shall then nominate and appoint a Township Clerk, who shall have the same powers and be subject to the same responsibilities as if he had been legally chosen and appointed in the usual manner; that the Township Clerk who shall have duly performed the duties assigned him by this Act, at the termination of each year, receive the sum of four pounds for his trouble, and the Treasurer of the District is hereby authorised to pay the same on the certificate of the Clerk of the Peace, that the said Township Clerk hath lodged in the office the several papers required as aforesaid.

Township Clerk to receive four pounds for his trouble.

Township Clerk to enter declarations in a book kept for the purpose.

IX. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Township Clerk of any Township, during the continuance of his office, to provide and keep a book wherein shall be entered declarations in the form hereinafter contained, which declarations shall be severally signed by the said Township Clerks, and by all other Township Officers of the Township; and so soon as the annual Township meeting shall have adjourned, the Township Clerk shall put up at some conspicuous place where the said Township meeting was held, a list containing the names of all such persons as have been chosen to any office in such Township; and all and every such Officer shall subscribe to the said declaration in the Township Clerk's book within twenty days from his appointment; and every Township Officer making default herein, shall forfeit and pay the sum hereinafter mentioned; and it shall be the duty of the Township Clerk, immediately after the expiration of the said twenty days, to transmit to a Justice of the Peace of his division, a list of all such Township Officers who have been chosen for the current year, and have not subscribed the declaration aforesaid; and the said Justice shall proceed against such defaulter, and recover the sum forfeited under this Act; and any two Justices acting within the division may then appoint other Township Officers in lieu of those who shall make default as aforesaid, who shall subscribe the said declaration in the Clerk's book, and have the same power and be liable to the same responsibilities as if they had been elected or appointed in manner hereinbefore pointed out.

List of Officers to be put up.

Officers to subscribe declaration on pain of forfeiture.

Clerk to transmit to Justice of Peace a list of Officers chosen who have not subscribed.

How others shall be appointed.

*Declaration.*

I, ———, do sincerely promise and declare, that I will faithfully and diligently perform the duties of ———, for the Township of ———, for the current year. Declaration.

X. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for Her Majesty's Justices of the Peace to pay into the hands of the Township Clerk appointed under this Act, all monies arising from fines, and also the commutation money in lieu of Militia service in said Township, which may have been directed by law to be expended upon the high roads, all which monies shall and may be expended in making and improving the public highways, roads and bridges accordingly, by the Overseers of Highways, in such division of the roads as the Magistrates may order for the advantage of the inhabitants of said Township, and all monies arising from the Wild Land Assessment and other sources, except specially provided for by law. Money arising from fines and commutation for Militia service, to be paid into the hands of the Township Clerk, to be expended in the improvement of the highways and bridges.

XI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Town or Township Clerk to make out a full and detailed statement of all monies received and expended by him, by virtue of this Act, during the current year, which statement shall be signed and certified by the said Clerk, a copy of which shall be put up at the place at which the ensuing Town meeting shall be ordered to be held, on or before ten o'clock on the day of meeting; that his accounts of receipts and disbursements for the current year shall be laid before the Township meeting, which accounts shall be examined and approved by the Town Wardens at such meeting; before any other business be transacted; and that every Township Clerk shall give bond for the due performance of his duty, which bond may be in the following form: Township Clerk to make a detailed statement of all monies received and expended:

To be laid before the Township meeting, and to be approved by Town Wardens;

Township Clerk to give bond.

*“Bond” — “Township Clerk.”*

Know all men by these Presents, that we, K. L., Township Clerk for the Township of ———, in the District of ———, and D. K. of ———, and T. H. of ———, are held and firmly bound to F. B., Treasurer of the District of ———, in the sum of ———, to be well and truly paid to F. B., Treasurer, or his successors in office, for which payment well and truly to be made to the said F. B., we bind ourselves, jointly and severally, our heirs, executors and administrators, firmly by these presents, sealed with our seals, dated, &c. The condition of the above bond is such, that if the above bounden K. L. shall well and truly pay over, according to law, for the use of the Township, all monies coming into his hands by virtue Bond.

of his office, and applicable to the general uses of the Township, and deliver the remainder, (if any there be,) together with all books, records and papers, belonging to the Township, into the hands of his successors in office as the law directs, then this obligation is null and void, or otherwise to remain in full force.

(Signed) A. B., *Township Clerk.*

township meetings to  
determine what cattle, &c.  
may run at large, and  
what restrained;

regulations upon owners of  
cattle running at large  
contrary to regulations;

regulations respecting  
pits, fences, &c.

XII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the inhabitant freeholders and householders of the several Townships in this Province, at such Township meetings assembled, to determine and order in what manner, at what periods, and what description of horned cattle, horses, sheep and other animals, shall be allowed to run at large, or be restrained from so doing, within their respective Townships for the year; and what shall be the fine or forfeiture upon the owner of any animals running at large, contrary to such regulations; and also to make such rules and regulations as the majority may deem necessary relative to pits, precipices and deep waters, or other places dangerous to travellers, or the destroying or suppressing the growth of such weeds as are detrimental to good husbandry; the height and description of lawful fences, and such other matters connected with the Township as may tend to promote the peace and welfare of the Township.

parts of insane per-

parts of Township  
Clerk's accounts, &c.

XIII. *And be it further enacted by the authority aforesaid,* That it shall and may be the duty of the Town Wardens to report to the Magistrates of the District, any persons who shall be insane or of unsound mind, going out at large to the danger of the peace of the inhabitants of such Township; and also it shall be the duty of the Town Wardens to audit and examine the Township Clerk's accounts, and to approve the same if found correct, and this examination to be the first duty performed at the Township meeting.

parts of townships to  
list of all ratable  
property;

XIV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Assessor of any Township, and he is hereby authorised and required to demand and receive from every ratable inhabitant resident within the Township, a list of all the ratable personal property in his, her or their possession, in the Province, and of all the lands, tenements or other real estate, in his, her or their possession, in the Township, specifying the number of the lot or lots, or parts thereof, the number of concession or concessions in which the same is or are situated, or otherwise particularly describing the same; and also the number of acres cultivated or uncultivated in each lot or parcel of land, which list shall be taken between the first Monday in January and the sitting of the Court of General Quarter Sessions of the District, which shall be holden next





Heads of families to be fined who give incorrect lists.

Blank books to be furnished by Clerk of the Peace, for taking assessments.

Clerk of the Peace to report delinquent Assessors.

Magistrates to appoint other Assessors.

Collectors to lodge Bond.

Fees to be allowed to Assessors.

And if such householder or head of a family shall refuse or neglect to give a true and correct list to the Assessor, he shall be liable to pay the same penalty as persons are liable to pay who neglect or refuse to give in a true list of their ratable property to the said Assessor, to be levied and collected and expended in the same way; blank books, or forms for taking the Assessment, shall be furnished to the Assessors, on their application to the Clerk of the Peace, who shall charge the expense of the same in his account against the District; and the Clerk of the Peace shall report to the Quarter Sessions next after the first day of March aforesaid, the names of all Assessors belonging to his District, who have not completed and delivered into his office their Assessment rolls, for which neglect every such Assessor shall forfeit and pay the same sum as is imposed on officers neglecting to make the declaration of office, which money shall be expended on the roads in said Township; and the Magistrates shall appoint other Assessors for that year, who shall have the same powers and authority, and be liable to the same responsibilities, as they would have been had they been appointed at the Township meeting; which new Assessors so appointed, shall be notified by the Clerk of the Peace of their appointment, and shall proceed to take such Assessment and make their returns to the Clerk of the Peace, as herein-before provided, in one month after having been so notified, and shall sign the declaration in the Clerk's book; and the Collectors shall lodge their bond, as required by this Act, before the sitting of the Court of General Quarter Sessions next after the first day of July in each year.

XVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for each and every Assessor to receive from the Treasurer of their respective Districts, on the certificate of the Clerk of the Peace, that the Assessment roll hath been duly delivered according to law, the following fees:—If the Assessment of the rate of one penny in the pound for the year does not amount to fifty pounds, he shall receive a sum equal to seven pounds for every one hundred pounds; if above fifty pounds, and under one hundred pounds, a sum equal to six pounds ten shillings for every one hundred pounds; if above one hundred pounds, and under one hundred and fifty pounds, a sum equal to six pounds for every one hundred pounds; if above one hundred and fifty pounds, and under two hundred pounds, a sum equal to five pounds five shillings for every one hundred pounds; if above two hundred pounds, and under two hundred and fifty pounds, a sum equal to four pounds fifteen shillings for every one hundred pounds; if above two hundred and fifty pounds, and under three hundred pounds, a sum equal to four pounds five shillings for every one hundred pounds; if above three hundred pounds, and under three hundred and fifty pounds, a sum equal to four pounds for every one hun-

dred pounds; if above three hundred and fifty pounds, a sum equal to three pounds ten shillings for every one hundred pounds.

XVII. *And be it further enacted by the authority aforesaid;* That it shall be the duty of the Collector appointed for a Township to make application to the Clerk of the Peace, (first having lodged with the Treasurer of the District the Bond hereinafter mentioned, the securities to which Bond shall be Freeholders, and as such certified by the Town Clerk to be good and sufficient,) for a certified copy of the Assessment Roll for the Township, for the year in which he is appointed; which copy, after being duly examined and certified by the Clerk of the Peace, shall be to each and every Collector sufficient authority for collecting the same, and from time to time to demand and receive from the inhabitants of the Township, all such rates and assessments as may be due and payable on such Assessment List; and it shall be the duty of all Collectors for any Town, Township or place, to deliver his Bond, duly executed according to Law, to the Treasurer of the District, and to take up the Assessment Roll on or before the Quarter Sessions next after the first day of July in each year.

Collector to make application to the Clerk of the Peace for assessment roll:

Certified by the Clerk of the Peace:

And receive the rates due on such Roll:

Collector's Bond to be delivered to the Treasurer of the District.

“BOND”

“COLLECTORS.”

Know all men by these presents, that we A. B., Collector of the rates for the Township or Townships of ———, in the District of ———, and C. D. of ———, and E. F. of ———, are held and firmly bound to J. O. Treasurer of the District of ———, in the sum of ———, Currency, to be well and truly paid to the said J. O., Treasurer, as aforesaid, or his successor in office, for which payment well and truly to be made to the said J. O., we bind ourselves, jointly and severally, our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated this ——— day of ———, in the year of our Lord ———.

Form of Collector's Bond.

The condition of the above bond is such, that if the above-bounden ———, shall collect all rates and assessments of the Town, Township or Townships of ———, for the year eighteen hundred and ———, for which he has been appointed, and shall pay all monies which he may so collect (except his own per centage) to the Treasurer of the District, on or before the third Monday in December, in the said year eighteen hundred ———, then this obligation shall be null and void, or otherwise to remain in full force and virtue.

XVIII. *And be it further enacted by the authority aforesaid,* That every Collector of a Town, Township or place, shall collect all rates (which can be collected,) set forth in the Assessment roll, and shall pay over the

Collectors to settle with the Treasurer on or before third Tuesday in December:

On default to be ineligible to be elected to any office at the next Township Meeting;

Collector to reserve certain fees:

Fees.

When a house, &c. is vacated before the Assessment Rates are collected, Collector to obtain such Rates from the owner;

If not demanded before second Monday in December, Collector responsible;

Distress against defaulters.

Overseers of Highways to superintend the same and keep them in repair;

amount, and finally settle his account with the Treasurer, on or before the third Tuesday in December in each and every year; and that no Collector who has not so settled his account with the Treasurer, shall be eligible to be elected to any Township office at the next Township meeting, and shall also be proceeded against, as hereinafter provided, for the recovery of the amount then due for that year: *Provided always*, that it shall and may be lawful for every such Collector to reserve for himself the following fees, as a compensation for his services:—If the Assessment of the Township for which he is Collector, does not amount to fifty pounds, he shall retain a sum equal to eight pounds for every hundred pounds he collects; if above fifty pounds, and under one hundred pounds, a sum equal to seven pounds ten shillings for every hundred pounds; if above one hundred pounds, and under one hundred and fifty pounds, a sum equal to seven pounds five shillings for every hundred pounds; if above one hundred and fifty pounds, and under two hundred pounds, a sum equal to seven pounds for every hundred pounds; if above two hundred pounds, and under two hundred and fifty pounds, a sum equal to six pounds ten shillings for every hundred pounds; and for all sums over two hundred and fifty pounds, a sum equal to five pounds for every hundred pounds.

XIX. *And be it further enacted by the authority aforesaid*, That if any person who shall occupy a house, farm or tenement, in any Town, Township or place, in this Province, and shall have been assessed for the same, shall leave the said Town, Township or place, before the said assessed rates have been paid, it shall and may be lawful for the said Collector to ask, claim and recover, the said rates (except such part thereof as shall have been charged on movable property) from the owner of the said house, farm or tenement: *Provided*, the same shall be demanded fourteen days before the second Monday in December in each year; but should the year in which the said rates are due, expire before the said rates be demanded, then and in that case the Collector shall be liable for the amount; nevertheless the said Collector shall be entitled to proceed, by warrant of distress, against any such tenant, although he may have left the Township; and that the Collector may, in like manner, proceed to recover from all other persons residing in his Township, the assessed rates which shall not have been paid by the first Monday in November in each and every year, the same having been demanded fourteen days previous to the date of the Magistrate's warrant of distress.

XX. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the Overseers of Highways of any Township, and they are hereby severally authorised and required to superintend, make and keep in repair, the highways, roads, streets and bridges, that may be allotted to them

severally, from time to time, and ordered by the Magistrates acting for the division; which divisions the Magistrates acting within the division are hereby authorised and empowered to make at a Special Sessions, by them for that purpose to be holden, on or before the third Saturday in the month of April in each year, of which Special Sessions at least six days public notice shall be given, by putting up the same in at least three public places within each Township; and every such Overseer shall, after having received such order, notify all persons within his division, liable to perform Statute Labour, and order them, after having given three days notice of the day, hour and place, which notice may be delivered either in writing or verbally at the place of residence of said persons so liable to work, within the time stated in such order, on such part of the roads, bridges or highways, as they are directed to make, mend or repair; and shall and may direct all persons performing such labour to destroy such weeds as may be, in his opinion, hurtful to good husbandry; and shall give to every person who may have done his Statute Labour for the year, requiring the same, a certificate under his hand of having performed his share of Statute Labour in that Township for the year, in order to prevent such person from being called out again in any other Township into which he may remove.

Authorised by the Magistrates.

Notice to persons liable to perform Statute Labour;

Hurtful weeds to be destroyed;

Certificates to such persons as have performed Statute Labour.

*XXI. And be it further enacted by the authority aforesaid, That it shall be the duty of the Township Clerk for each and every Township in this Province, to obtain a list of persons in his Township liable to perform Statute Labour, showing the number of days each person is liable to work, which list the Overseers of Highways for the Township shall have authority to take a copy or extract from the same.*

Township Clerk to obtain list of persons liable to perform Statute Labour.

*XXII. And be it further enacted by the authority aforesaid, That when any road or highway passes any deep water, precipice or other dangerous place, the Overseer in whose division such may be situated, shall, by Statute Labour, cause good and sufficient guards, rails or fences, to be erected, in order to make such place safe, and shall also erect finger posts at all such places within his division, as shall be necessary for the direction of travellers.*

Overseers to erect guard rails and fences.

*XXIII. And be it further enacted by the authority aforesaid, That any person liable to perform Statute Labour, according to law, may compound for such duty, if he or she shall think fit, on or before the first Monday in May, by paying the Overseer acting for the division in which he resides, the sum of two shillings and sixpence for every day which he or she may be required to work as aforesaid; and such Overseer is hereby authorised and required to accept the said sum in lieu of such Statute Labour, and*

Persons liable for Statute Labour may compound for 2s. 6d. per day.

shall and may lay out and expend the same, as to him shall seem best, for the improvement of the roads and bridges allotted to his division, and render an account of the same as is provided by this Act: *Provided always*, that nothing herein-contained shall affect any provision in any Act passed for Macadamizing certain roads within this Province.

XXIV. *And be it further enacted by the authority aforesaid*, That in order to provide materials for making or erecting bridges or causeways, or making or repairing any road with the money or labour of any Township, it shall and may be lawful for any Overseer of Highways, in the actual discharge of his duty, to direct the persons performing the work to cut down or make use of any trees or underwood standing upon any uninclosed and unimproved lands, and also to break up and make use of any stone upon any unimproved and uncultivated land that the Overseer may think necessary for that purpose, doing no unnecessary damage to the premises from whence they are taken.

Overseers may direct the cutting down and using of any trees on unimproved lands.

XXV. *And be it further enacted by the authority aforesaid*, That the roads and highways in and through every Township, and also a just share of any road actually required and necessary, running between the same and any other Township, shall be cleared, repaired and maintained, by the inhabitants thereof; and that every person liable to perform Statute Labour, if not compounded for as aforesaid, shall, either in person or by a sufficient and able-bodied man in his stead, be obliged, under the direction of an Overseer acting for the division, to work faithfully and diligently on the said road, and shall bring with him such tools or implements useful for the purpose as he may be owner of, and be directed by the Overseer to bring, for and during the time he may be liable to work on the said road, in each and every year, allowing eight hours to each day's work, exclusive of the time of going and coming to and from the place of work; and that every person within the Township keeping a cart, waggon or team, of one or more horses, or yoke of oxen, shall send, on every day to be appointed by the said Overseers, a cart or waggon, or other implement and team, and one able-bodied man to drive the same for such space of time as he shall be liable to work on the said roads, according to law, allowing eight hours for such day's work, which said day's work, with a team and driver, shall be held equivalent to two days' personal labour for one man; and if any labourer or driver shall refuse or neglect to work faithfully, or to carry sufficient loads during the time above-mentioned, it shall and may be lawful for the said Overseer, and he is hereby authorised and required to discharge such labourer, and the person furnishing such team shall be liable to the forfeiture which every such person would have incurred by virtue of this Act, in case such labourer had not attended, or such team and

Persons to work faithfully, and furnish such tools for the purpose as he may possess;

Owners of carts or waggons to send them and driver when directed:

Penalty in case of neglect.

driver had not been sent, and shall not be allowed for the part or portion of the day which he may have laboured.

XXVI. *And be it further enacted by the authority aforesaid,* That the several Overseers of Highways in the several Townships, shall cause all Statute Labour under their direction and control to be performed, and all monies coming into their hands, in lieu of Statute Labour, to be expended between the tenth day of May and the twenty-fourth day of July, in each and every year; and in default thereof, shall be liable to forfeit, to be expended on the roads in the Township in the succeeding year, the same sum as is hereinafter imposed for refusing to make and sign the declaration of office.

Statute Labour to be performed, and money expended between the 10th May and 24th July.

XXVII. *And be it further enacted by the authority aforesaid,* That every person liable to perform Statute Labour, in any Township or division, and not having compounded for the same, according to law, who shall neglect or refuse, after having been duly notified as aforesaid, to attend himself, or send a sufficient able-bodied man in his stead, with such carriage, team, implement or instrument, as may be by this Act required by the Overseers, at the time and place appointed, shall forfeit and pay the sum of five shillings for each day he shall so neglect or refuse, to be recovered on complaint of the said Overseer of Highways, by warrant under the hand and seal of a Magistrate, by distress and sale of the goods and chattels of the person so offending, rendering the overplus, (if any there be,) to the party, after deducting the penalty, and legal charges attending such distress and sale; and the imposing of any such fine or penalty on any person, shall not in anywise release such person from performing any duty required of him by this Act, but he shall be liable and subject to perform the same, at any time within the current year, when called upon so to do by the proper officer, as though no such penalty had been imposed.

Persons neglecting to perform Statute labour, after warning, shall pay five shillings per day.

Persons not released from performing Statute labour in consequence of being fined.

XXVIII. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully stop up any road or roads in any Township, or shall pull down or destroy any fence, railing or guard, that shall have been erected along any water, bridge or precipice, for the safety of travellers, or any guide or finger post, such person or persons so offending, shall forfeit and pay, on conviction for every such offence, a sum not less than five shillings, nor more than five pounds, to be recovered in the manner provided by the preceding clause of this Act; or in case any tree or trees shall be cut down in or fall out of any enclosed land, or other lands which shall be occupied by a resident settler, in such a way as to obstruct any

Persons stopping up any highway, or destroying any fence, &c. shall be fined;

Nuisances to be removed by owners of land on which they occur.

public road or highway, or any other thing which may be represented as a nuisance, the owner or occupier of such land shall remove the same within twenty-four hours after notice received of such obstruction, under the penalty of ten shillings for every day the obstruction shall continue, the penalty to be recovered in like manner as aforesaid.

Persons assessed under twenty-five pounds when exempted from Statute labour.

XXIX. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, any person who is not assessed more than twenty-five pounds, and who, by reason of age, sickness, numerous family or misfortune, may be in poor and indigent circumstances, may apply to the Town Wardens for the Township in which such person resides, and the said Town Wardens, on such application, having first notified the Overseer acting for the division in which such person resides, to appear on the part of the public, shall enquire into the situation and circumstances of the person making such application, the said Town Wardens may exempt such person from the performance of the whole or part of his Statute Labour upon the highways for the year, and give him a certificate to that effect, which shall be the Overseer's acquittance for the work.

Omissions of names on assessment roll, or coming into the township after the same is made up, not to exempt the parties;

XXX. *And be it further enacted by the authority aforesaid,* That if through any inadvertency or otherwise, the name of any person which should have been inserted in the Assessment roll shall be omitted, such person shall be liable to work on the highways in the Township in which they reside, in the same proportion as if no such omission had taken place; and the Overseer is hereby authorised and required to insert, in his road list, for labour, any such person as may come into the Township to reside, after the Assessment roll has been taken for the year, and to call them out to perform Statute Labour, in the same manner as other persons who reside in the Township: *Provided always,* that immigrant labourers shall have resided full six months in this Province.

Exception.

Township Overseer to make out lists of all persons within their divisions liable to Statute labour, of labour done, monies received and expended, verified upon oath;

XXXI. *And be it further enacted by the authority aforesaid,* That the Overseers of each and every Township shall severally make out a true list or account of all persons within their respective divisions, who are liable to work on the highways, and of the labour done or unperformed by any person liable to perform or compound for the same; and also of all monies that may come into his hands by virtue of his office, and of the expenditure or payment of the same; which list and account shall be subscribed by such Overseer, and delivered, verified upon oath, which oath any Magistrate of the District is hereby authorised to administer, to the Township Clerk, on or before the first day of September in each and every year; and the said account shall be examined by the said Clerk for the

purpose of being placed with the records of the Township; and it shall be the duty of the said Township Clerk, on or before the first day of December in each and every year, to furnish the Magistrates of the division with the names of the Overseers of Roads who shall not have so rendered their account for the current year, in order that the said Overseers of Highways may be called upon for their accounts; and every Overseer of Roads who shall neglect to render his account as aforesaid, shall be liable to the same penalty, to be recovered in the same manner as provided by this Act, for persons refusing to take the oath or declaration of office.

Township Clerk to furnish Magistrates with names of Overseers of roads who have not furnished their accounts;

Defaulters subject to fine.

**XXXII.** *And be it further enacted by the authority aforesaid,* That it shall be the duty of any Pound Keeper appointed under the provisions of this Act, to provide himself with sufficient yards or enclosures for the safe keeping of all such animals as it may be his duty to impound, and he is hereby authorised and required to impound all animals unlawfully running at large, trespassing and doing damage, that may be delivered to him by any persons resident within his Division taking up the same; and it shall be his duty to furnish the same with necessary food and drink; and if after the space of forty-eight hours the said animals shall not be claimed and redeemed by the owner, or some one on his behalf, paying the Pound Keeper his lawful demand and charges, and the amount of damages awarded, in the manner hereinafter mentioned to have been done by such animals, to the person taking up the same, he shall cause a notice in writing to be affixed in three public places in the Township for at least fifteen days, which notice shall give a description of such animals, and also state the time and place at which he intends to expose the same for sale; and if the owner of such animals, or some one in his or her behalf, does not within the time specified in such notice as aforesaid, redeem the same, by paying to the said Pound Keeper his legal fees, which shall be regulated from time to time by the Town Wardens of each Township, who are hereby required to regulate the same, and furnish the copy or schedule to the Township Clerk for the information of the Pound Keepers, and charges and the damages awarded to the person taking up such animals, the said Pound Keeper shall proceed to sell the same to the highest bidder, at the time and place mentioned in the said notice, which sale is hereby declared to be valid in law; and the said Pound Keeper shall, after deducting his own legal charges and the damages awarded to the person taking up the said animals, provided he is the party injured, return the overplus (if any there be) to the original owner: *Provided always,* that if no person shall appear to claim the said animals within the space of three months after public notice and sale as aforesaid, the said Pound Keeper shall pay the overplus (if any) into the hands of the

Pound-keepers to provide themselves with enclosures, and to impound all animals unlawfully running at large, and furnish them with food and drink.

If animals not claimed, and lawful demands not paid, they may, after legal notice, be sold;

Overplus arising from sale to be returned to owner, if claimed.



Township Clerk for the time being, to be laid out and expended for the improvement of the roads and bridges within the said Township.

How to proceed when horses, oxen or cows are impounded, and owners are not known.

XXXIII. *And be it further enacted by the authority aforesaid, That* if any Ox or Oxen, Horse or Horses, Cow or Cows, shall be impounded as aforesaid, and not claimed before the expiration of fifteen days as aforesaid, and the owner thereof shall not be known by the said Pound Keeper, then and in that case the Pound Keeper shall not sell such Ox or Oxen, Horse or Horses, Cow or Cows, at the time stated in such notice, but shall postpone the sale thereof for the space of forty days, at the expiration of which time such Pound Keeper shall proceed to sell the same, and dispose of the proceeds in the manner mentioned in the last preceding clause of this Act: *Provided always*, that the owner of the same may at any time before such sale redeem such animal or animals by paying demands as aforesaid.

Owner may redeem.

Persons taking up cattle to be impounded, must state their demands in writing;

XXXIV. *Provided also, and be it further enacted by the authority aforesaid, That* it shall be the duty of all and every person taking any animal or animals to a Pound Keeper to be impounded, at the same time, or within twenty-four hours, to state in writing to the said Pound Keeper, all demands he may have against the owner of such animal or animals, for damages done by them; and in case the owner of such animal or animals shall tender to the Pound Keeper the full sum which shall or may be awarded as damages to the party suffering the same, with the costs then incurred, such owner shall not be liable to any costs afterwards incurred, but all such subsequent costs in such case shall be borne by the party claiming extravagant damages.

Party claiming extravagant damages to pay costs.

Three freeholders may appraise damages, and determine upon the lawfulness of fences;

XXXV. *And be it further enacted by the authority aforesaid, That* it shall be the duty of the Pound Keeper, and he is hereby authorised and required, when the owner of any animal impounded shall object to the amount of damages claimed, within forty-eight hours after the same have been impounded as aforesaid, to notify three disinterested resident Freeholders or Householders, farmers in the said Township, to appraise the damages, and also to judge of the sufficiency of the fence enclosing the ground wherein such animals were found doing damage, and such Freeholders or Householders, farmers, or any two of them, shall within twenty-four hours after the receipt of such notice view said fence, and determine whether the same is a lawful fence according to the regulations of the Township meeting on the subject, and if so, appraise the damage done; and having reduced this their award to writing, shall deliver the same signed with their names to the Pound Keeper, within the space of twenty-four hours after having been so notified: *Provided always*, that if any

person shall neglect or refuse to attend to examine said damage after being notified as aforesaid, he shall be liable to a penalty of five shillings for every such neglect or refusal, to be recovered and applied in the same manner as fines imposed by this Act for refusing or neglecting to perform Statute Labour: *Provided always*, that the owner of any animal or animals not permitted to run at large by the regulations of such Township meeting, shall be liable for any damage done by such animal or animals, notwithstanding that the fence enclosing the premises was not of the height required by the said regulations.

Persons refusing to appraise may be fined;

Persons liable for damage, if cattle unlawfully allowed to run at large.

XXXVI. *And be it further enacted by the authority aforesaid*, That if any person legally appointed to any Township Office agreeably to the provisions of this Act, shall neglect or refuse to make the declaration of office, and to sign his name thereto in the Township Clerk's book, within twenty days after his being so appointed, or after making said declaration, shall neglect or refuse to perform the duties of his office agreeably to the provisions of this Act, or if any person shall neglect or refuse to deliver to the Assessor a true list of his or her ratable or personal property, as the law directs, in manner and form aforesaid, or shall wilfully mis-state such ratable property, such person shall forfeit and pay a sum not less than one pound nor more than five pounds, with costs, for every such neglect, refusal or violation of the laws, to be levied by distress and sale of the Offender's goods and chattels, eight days previous notice of said sale being given, and the overplus (if any there be) being rendered to the owner.

Persons neglecting to comply with provisions of this Act may be fined.

XXXVII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for any person or persons to examine any document on record, in possession of the Township Clerk, on payment of one shilling and three pence, as the Clerk's fee for his trouble in making or assisting to make the same.

Records of Township Clerk may be examined on payment of one shilling and three pence.

XXXVIII. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the District Treasurer, and he is hereby authorised and required to prepare and place before the Quarter Sessions, to be holden in said District next after the first day of January in each and every year, a list of such Collectors of rates as may be in arrears, and shall not have paid over the rates to the Treasurer for the year in which he or they shall have been appointed; and it shall be the duty of the Magistrates in Quarter Sessions assembled, to issue their warrant, and distrain the goods and chattels of said Collector or Collectors, and cause the same to be sold, after having given twenty days notice of the time and place of such sale, to the amount of rates due to the District, with the

District Treasurers to present to Magistrates a list of Collectors in arrears;

who may proceed against them and sureties.

costs thereon; and also may proceed in like manner against the goods and chattels of the Sureties named in said Collector's bond.

Persons chosen as Township Commissioners may serve as Township Wardens.

XXXIX. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Township Commissioners, who have been appointed at the Township meeting on the first day of January, one thousand eight hundred and thirty-eight, to perform the duties of Township Wardens, provided for in this Act; and their offices as Township Commissioners shall hereafter cease, and that the duties of all other Township Officers, appointed at the annual Township meeting aforesaid, shall be performed and regulated agreeably to the provisions contained in this Act.

How to proceed when Township Rates have not been assessed or collected.

XL. *And be it further enacted by the authority aforesaid,* That in case it shall have happened that any Township in this Province shall, from neglect of the Assessors or Collectors, or other cause, not have been assessed, or the rates therein not have been collected for any one year or more previously to the passing of this Act, when by law it should have been done, it shall and may be lawful for the Magistrates of the District in which such Township or Townships are situated, in Quarter Sessions assembled, to authorise the Collector for the current year to collect the said rates in like manner and under the same provisions and penalties provided for by this Act.

Assessors to make out schedules of lands not included in their rolls, for Clerks of Peace.

XLI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Assessors of each and every Parish, Township or place, within this Province, to make out a schedule of all lands within the same, not included in their several Assessment Rolls, and they shall sign and deliver the same to the Clerks of the Peace of the several Districts along with the Assessment Rolls, for the information of the Treasurer, in the following form:—

SCHEDULE OF LAND, *in the Township of* ———, *in the District of* ———,  
*not inserted in the Assessment roll of said Township for the year* ———.

Form.

LOTS OR PARTS OF LOTS.	CONCESSION.	NUMBER OF ACRES.
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Town Wardens may compound for Statute labour for five years.

XLII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Town Wardens of any Township, legally appointed according to the provisions of this Act, to compound or agree

with any person or persons resident in the Township, for making in a permanent and substantial manner, any part of any public road within their Township, in lieu of his or their Statute Labour, which he or they may be by law required to perform in the Township, for any number of years not exceeding five, which agreement shall be committed to writing and signed by the parties, and thereupon it shall be binding on the Town Wardens and their successors, and the other person or persons being a party to such agreement, and upon the due performance and completion of such agreement, the person or persons performing the same shall be exempt from all Statute Labour in the Township for the full term of time agreed upon as aforesaid.

*XLIII. Provided always, and be it further enacted by the authority aforesaid,* That in case any person or persons, after having subscribed to any agreement as aforesaid, shall neglect or refuse to perform the same in the manner and within the time specified in such agreement, he or they shall be liable to the like penalty that persons are by this Act who refuse or neglect to perform their Statute Labour.

Persons failing in agreement liable to penalty.

*XLIV. And be it further enacted by the authority aforesaid,* That if it shall happen that any person or persons shall enter into an agreement with the Town Wardens as aforesaid, and in pursuance of such agreement make a part or the whole of the road required by such agreement, but upon which there will arise a dispute between the Town Wardens making the agreement or their successors and the other party thereto, touching the fulfilment of such agreement, such dispute shall and may be submitted to three Overseers of Highways acting in the Township for the year; and such three Overseers of Highways shall be drawn by a public and impartial ballot from the whole list of Overseers of Highways, acting in the Township for the year; which ballot shall be made by the Township Clerk, who shall give the two contending parties due notice of the time and place where such ballot shall take place; and it shall be the duty of such Clerk to appoint a time and place for the meeting of such Overseers of Highways so balloted, giving them, and also the parties to such dispute, at least eight days' notice; and thereupon it shall be the duty of such Overseers of Highways to meet, and after having the said agreement submitted to them, and examining the premises, to make such award as to them shall appear just and right, which award shall be binding on the parties and be final.

Disputes to be submitted to three Overseers of highways, chosen by ballot.

Contending parties to have notice.

Awards binding.

*XLV. And be it further enacted by the authority aforesaid,* That it shall be the duty of the Clerk of the Peace in every District, to make out a general return of the population of his District from the several returns

Clerks of the Peace to make out returns of population, and transmit to Lieut. Governor.

which he may receive from the Assessors for the year, and to transmit the same to the office of the Governor, Lieutenant Governor, or Person Administering the Government of this Province for the time being, on or before the first day of July in each and every year; and if such return shall not contain the whole population of his District, he shall send in a return of such Townships as may be deficient, as soon as practicable after he shall be enabled to do so by returns of the Assessors of such Townships.

Persons refusing to pay rates, liable to distress and sale of goods and chattels.

**XLVI.** *And be it further enacted by the authority aforesaid,* That if any person whose name is inserted upon such Assessment roll, shall neglect or refuse to pay the sum or rate for which he or she stands rated in manner aforesaid, for the space of fourteen days after demand duly made of the same by the said Collector or his agent duly appointed, the said Collector, upon oath before one Magistrate, of such demand and refusal of payment as aforesaid, shall be entitled to demand an execution for the amount of such rate or rates, which execution the said Magistrate is hereby authorised and required to grant; and upon receipt of the same, the said Collector shall, and he is hereby authorised and required to levy the same by distress and sale of the goods and chattels of the person so neglecting or refusing to pay, having eight days' previous notice of such sale, in three public places in the Township, and render the overplus (if any there be) to the owner thereof, after deducting the amount of the rates assessed, and the legal charges of the distress and sale.

Fees to Constable.

**XLVII.** *And be it further enacted by the authority aforesaid,* That the Constable to whom any warrant, execution or summons, may be directed, authorised to be issued by this Act, shall be entitled to the following fees, and no more, for executing such warrant, execution or summons, namely: Four-pence per mile for every mile he may have to travel to execute the same, which travel shall be verified upon oath, if required; and for levying, advertising, selling and making returns, two shillings and sixpence; for every summons served, eight-pence.

Town Wardens a corporate body.

**XLVIII.** *And be it further enacted by the authority aforesaid,* That the Town Wardens appointed by this Act for their respective Townships, and their successors duly appointed, shall be as a Corporation to represent the whole inhabitants of the Township for which they are Town Wardens, and as such may have and hold the property of or belonging to the Township, and shall and may sue, prosecute or defend, in all presentments, indictments or actions, for and on behalf of the said Townships.

**XLIX.** *And be it further enacted by the authority aforesaid,* That if any one to whom an oath or affirmation may be administered, under the provision of this Act, shall wilfully swear or affirm falsely, such false swearing or affirmation shall be deemed wilful and corrupt perjury, and the person guilty thereof shall and may be prosecuted and punished therefor as for wilful and corrupt perjury.

False swearing, perjury.

**L.** *Provided always, and be it further enacted by the authority aforesaid,* That in case it shall be necessary to repair any sudden breach which may be caused in any public highway, by reason of any bridge or causeway giving way, or from any other casualty, or to remove any obstruction on account of snow, or to fix or set up beacons or stakes as a guide for travellers over any frozen waters, marsh, plain or other place, it shall and may be lawful for the Overseer or Overseers of Highways, in whose division the same may occur, and they are hereby required, to repair, remove or establish, as aforesaid, or cause the same to be done, by applying any money in their hands, and applicable to the roads and unappropriated, or to direct the application (for that purpose) of any Statute Labour subject to their control; and in case it shall happen that such Overseer or Overseers shall not at the time have any money or Statute Labour under his direction, which he may apply for the purposes aforesaid, it shall and may be lawful for such Overseer to direct any person in his division, and liable to perform Statute Labour, to repair such breach, remove such obstruction, or erect such guides as aforesaid; and such Overseer shall keep an account of the number of days any person or persons may work on the roads for the purposes aforesaid, which account such Overseer shall transmit to the Clerk of the Township, to be laid before the Town Wardens of the Township; and the said Town Wardens, after examining the said account, if it shall appear just and expedient, may exempt any person who may have worked as aforesaid, from performing any part of his or her Statute Labour for the next year, and shall give such person as aforesaid a writing to that effect, which shall be taken and considered by the Overseer under whose direction such person may be liable to work, and credited to such person for so much of his Statute Labour; and any person who shall neglect or refuse to perform such labour, or obey the orders of the Overseer, when required to work as aforesaid, shall be liable to the same penalties, and which may be recovered and disposed of in the same way and manner, as is provided by this Act for neglecting to perform Statute Labour, or disobeying the Overseers of Highways, except such person can make it appear that he had a reasonable excuse for so doing: *And provided also,* that the said Overseer shall, and he is hereby required, to proportion such labour among the several persons within his divi-

Overseers of Highways to repair breaches, set up beacons, &c.

Overseers may direct persons to do labour necessary, and account for the same as Statute labour.

Persons neglecting, liable to penalty;

Labour to be apportioned.

sion, liable to perform Statute Labour, as nearly equal as circumstances will permit.

LI. *And be it further enacted by the authority aforesaid, That the following fee, and no more, shall and may by such Collectors be taken for every distress, advertising and sale, namely—Three shillings and ninepence.*

Fees to be taken for distress and sale.

## CHAP. XXII.

*AN ACT to repeal and amend part of an Act passed in the last Session, entitled, "An Act to authorise the Chartered Banks in this Province to suspend the redemption of their Notes in Specie, under certain regulations, for a limited time, and for other purposes therein-mentioned.*

[Passed 6th March, 1838.]

**W**HEREAS the difficulty in procuring Specie, and the exigencies of the Public Service require that the several Chartered Banks in this Province should not be restricted in the issue of their Notes to the amount of their paid-up Capital, in case of a Suspension of Cash Payments: *Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That the sixth and seventh clauses of an Act passed in the seventh and eighth years of the reign of His late Majesty William the Fourth, entitled, "An Act to authorise the Chartered Banks in this Province to suspend the redemption of their Notes in Specie, under certain regulations, for a limited time, and for other purposes therein-mentioned," be and the same are hereby repealed: Provided always, nevertheless, that nothing in this Act shall be construed to authorise and empower any Chartered Bank in this Province, suspending under authority of the above-recited Act, to have in circulation a greater amount of Paper than twice the amount of their paid-up Capital.*

To enable

7th & 8th Wm. IV. c. 2,  
& 6 & 7, repealed:

Issues of suspended Banks  
not to exceed double  
amount of paid capital.

## CHAP. XXIII.

*AN ACT to repeal part of an Act passed in the seventh year of His late Majesty's reign, entitled, "An Act to protect the Public against injury from Private Banks, and for other purposes therein mentioned."*

[Passed 6th March, 1838.]

**WHEREAS** George Truscott, and John Cleveland Green, have, and each of them has, issued a large number of Notes, purporting to be of the Agricultural Bank, and payable either in this Province or at Montreal, in Lower Canada: *And whereas* many of the said Notes remain unredeemed, and serious loss is likely to accrue to the public in consequence thereof, the said George Truscott, and John Cleveland Green, having left this Province: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and Assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That in case any suit has been brought, or hereafter shall be brought, for a debt contracted with or due to the said George Truscott and John Cleveland Green, or either of them, in which suit the said George Truscott and John Cleveland Green, or either of them, are or may be Plaintiffs, or in which any other person or persons are or may be Plaintiffs, in any action brought upon any Note, Bill of Exchange, assigned or transferred to him or them by the said George Truscott and John Cleveland Green, or either of them, in trust for any purpose whatsoever, except upon a trust in which it shall be satisfactorily shewn to the Court that the said George Truscott and John Cleveland Green, or either of them, are in no degree interested, it shall and may be lawful for the Defendant in such suit to pay the amount claimed, together with the costs, into Court, in the Notes so issued by the said George Truscott and John Cleveland Green, or either of them, called the Agricultural Bank, whereupon the Court in which such suit is brought, or Judge thereof, shall direct all further proceedings to be stayed; or in case of Judgment having been given in favour of the said George Truscott and John Cleveland Green, or either of them, in any such suit, it shall and may be lawful for any

Preamble.

Agricultural notes to be received in payment of bills, &c. assigned by Messrs. Truscott & Green, where they are beneficially interested in the trust.



Officer acting upon an Execution under any such Judgment, to receive and take such Notes in payment and satisfaction of such Execution.

Clause in 7th Wm. IV. c. 1—  
relating to Agricultural  
Bank, repealed.

II. *And be it further enacted by the authority aforesaid*, That so much of an Act passed in the seventh year of His late Majesty's reign, entitled, "An Act to protect the Public against injury from Private Banks," as relates to the Agricultural Bank, be, and the same is hereby repealed.

Farmers' Banking Com-  
pany to issue notes pay-  
able on demand only.

III. *And whereas* the Farmers' Joint Stock Banking Company have issued Notes payable one year after date: *Be it further enacted by the authority aforesaid*, That it shall not be lawful for the Farmers' Joint Stock Banking Company, or any other Banking Company, to issue any Notes except those payable on demand, and within this Province.

## CHAP. XXIV.

*AN ACT to remove doubts respecting the validity of the late Elections for Aldermen and Councilmen for the City of Toronto.*

[Passed 6th March, 1833.]

Preamble.

**WHEREAS** in consequence of the late Insurrection, the Court empowered under and by virtue of a certain Act of the Parliament of this Province, passed in the seventh year of the reign of His late Majesty William the Fourth, entitled, "An Act to alter and amend an Act passed in the fourth year of His Majesty's reign, entitled, 'An Act to extend the limits of the Town of York, to erect the said town into a City, and to incorporate it under the name of the City of Toronto,'" to hear and decide upon all objections which might be made by any Elector of the City, to the insertion or omission of names in the lists required by the said Act, of persons entitled to vote at the elections of Aldermen and Common Councilmen, and to expunge, retain and insert, names from or in the said lists, did not discharge the duties imposed by the said Act: *And whereas* in consequence of such omission doubts might arise as to the validity of the elections of Aldermen and Common Councilmen, or other elective Officers for the year next ensuing: *And whereas* it is expedient to remove such doubts, and establish the validity of such election: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, an "Act to repeal cer-

tain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,' and by the authority of the same, That notwithstanding any omission to comply with any of the provisions of the above recited Act in respect of such lists, the lists of voters which have been prepared by the Clerk of the Common Council of the said City, in the form prescribed by the twenty-ninth Section of the said recited Act, and transmitted to the Returning Officers of the several Wards, shall be held to have contained the names of all the Electors entitled to vote at the election of Aldermen and Common Councilmen held on the ninth day of January, in the year of our Lord one thousand eight hundred and thirty-eight.

Omission to comply with provisions of 7th Wm. iv. c. 39, § 30, &c. not to vitiate election of Aldermen, &c. held 9th Jan. 1838.

## CHAP. XXV.

*AN ACT to erect certain Townships now forming parts of the Districts of Bathurst, Johnstown and Ottawa, into a separate District, to be called the District of Dalhousie, and for other purposes therein-mentioned.*

[Passed 6th March, 1838.]

**WHEREAS** it is expedient to erect, from certain parts of the Districts of Bathurst, Johnstown and Ottawa, a new District, with Bytown for its District Town, and that the following Townships, videlicet—Nepean, Goulburn, March, Huntly, Torbolton and Fitzroy, now forming part of the District of Bathurst; North Gower and Marlborough, of the District of Johnstown; and Gloucester and Osgoode, of the District of Ottawa, together with the Islands lying wholly or in greater part opposite thereto, do form the said new District, to be called the District of Dalhousie: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That so soon as it shall be made to appear to the satisfaction of the Lieutenant Governor, and the Executive Council of this Province, that a good and sufficient

Preamble.

District of Dalhousie formed out of certain townships;

Gaol has been erected therein, for the accommodation of prisoners, and a suitable Court House for the accommodation of Courts of Justice; and also that the amount of assessments raised within the said Townships is sufficient to defray the necessary charges attending a separate District, then it shall and may be lawful to and for the Lieutenant Governor aforesaid, by and with the advice and consent of Her Majesty's Executive Council in this Province, to declare, by Proclamation, the said Townships a separate and distinct District, by the name of the District of Dalhousie: *Provided, nevertheless*, that nothing in this Act contained shall affect, or be construed to affect the jurisdiction of Her Majesty's Court of King's Bench in this Province, or to affect the jurisdiction of the Courts of General Quarter Sessions of the Peace, or District Court, within the Districts of Bathurst, Johnstown and Ottawa: *Provided also*, that if at the time the said Townships shall be set off into a separate District, any action shall have been commenced, or be pending for any cause of action arising therein, or any indictment of any indictable offence that has been committed within either of the said Townships, the said action or indictment shall and may be tried at the next Assizes, or other Court, in which the same may be pending, to be held in and for the District in which such Township shall be situate, unless all the parties shall agree that the same shall not be tried in that District: *Provided always*, that such Gaol and Court House shall be erected on some part of the ground reserved or set apart by Government for such public uses in the Town of Bytown aforesaid.

To be declared by Proclamation, when Gaol and Court House erected.

Jurisdiction of King's Bench or Quarter Sessions in adjoining Districts not to be affected.

Actions, &c. pending when District declared, where to be tried.

Gaol and Court House to be erected on Government Reserve in Bytown.

County of Carleton, how formed.

Packenham to be annexed to County of Lanark.

Courts and Officers of new District to have like jurisdiction and privileges as are enjoyed by other Districts.

II. *And be it further enacted by the authority aforesaid*, That the said Townships of Gloucester, Nepean, Osgoode, North Gower, March, Torbolton, Fitzroy, Huntly, Goulbourn and Marlborough, together with the Islands lying wholly or in greater part opposite thereto, do constitute and form the County of Carleton; and that the Township of Packenham shall hereafter be annexed to and form part of the County of Lanark.

III. *And be it further enacted by the authority aforesaid*, That the Courts of Oyer and Terminer and General Gaol Delivery, of Assize and Nisi Prins, the Courts of General Quarter Sessions of the Peace, District Court, Surrogate Court, Court of Requests, and every other Court and Jurisdiction with all District Offices whatsoever, held or to be held, possessed and enjoyed in and by the other Districts of this Province, at the time of such Proclamation as aforesaid, shall from thenceforth, with the like powers and authority, be held and enjoyed in and by the said District, to be thereby declared and named by virtue of this Act; and that all and every jurisdiction, regulation, rule, privilege, exemption, matter or thing, which shall or may have been enacted, provided and declared, by any Act

or Acts of the Parliament of this Province, made or to be made, touching or concerning the said other Districts, and which shall be in force and operation at the time of such Proclamation as aforesaid, shall be and are hereby, from henceforth, extended to that District, to be thereby declared and named as aforesaid, unless otherwise provided for by this Act, or any other Act or Acts of the Parliament of this Province.

IV. *And be it further enacted by the authority aforesaid,* That all and every the provisions, rules, regulations, matters and things, contained in any Act or Acts of the Parliament of this Province, for the regulation of or relating to Gaols, which shall be in force and operation at the time of declaring and naming such new District as aforesaid, shall be and are hereby from thenceforth extended to the said Gaol and Court House, and that the aforesaid Courts of Oyer and Terminer and General Gaol Delivery, Assize and Nisi Prius, General Quarter Sessions of the Peace, Surrogate Court, and every other of the aforesaid Courts required to be held at a place certain, shall be commenced, and from time to time holden, at the aforesaid Court House, or such other Court House as shall hereafter be erected for that purpose by virtue of any Act or Acts of the Parliament of this Province.

Legislative enactments relating to Gaols, &c. in other Districts, to be in force.

Courts to be held as in other Districts.

V. *And be it further enacted by the authority aforesaid,* That from and after declaring and naming of the said Townships a separate District as aforesaid, the Court of General Quarter Sessions of the Peace, and the sittings of the District Court of the said District, shall be respectively commenced and held at the place hereinbefore appointed for that purpose, on the second Tuesday in the months of January and April, and on the third Tuesday in the months of July and October, in each and every year, and that the terms of the said District Court shall respectively commence on the Monday of the week next but one preceding the week in which the Court of General Quarter Sessions, and sittings of the said District Court, are hereby appointed to be held, and such terms shall respectively end on the following Saturday.

Times at which Courts of General Quarter Sessions are to be held.

VI. *And be it further enacted by the authority aforesaid,* That Her Majesty's Justices of the Peace, and other persons holding any Commission or office, or bearing lawful authority, and who shall be residing within the said Townships at the time the same shall be declared a separate District as aforesaid, shall continue to hold and enjoy and exercise the like Commission, Office, Authority, Power and Jurisdiction, within that District, in the same manner that they previously held, enjoyed and exercised, within the Districts of Bathurst, Johnstown and Ottawa: *Provided,* that the authority, power and jurisdiction, previously exercised

Authority of Justices of the Peace residing within the new District, to continue.

Such authority to cease within the Districts of Bathurst, Johnstown and Ottawa;

After declaration of new District authority of Justices and other officers in the Bathurst, Johnstown or Ottawa, to cease in such new District.

by Her Majesty's Justices of the Peace, and other persons bearing Commission or office or lawful authority within, or residing within the said Townships, shall not in anywise be longer exercised or continued within the Districts of Bathurst, Johnstown and Ottawa, but the same within those Districts shall from thenceforth cease and determine: *Provided*, that after declaring such new District as aforesaid, Her Majesty's Justices of the Peace, and others who thenceforth continue to hold Commission or office, or bear lawful authority within the before-mentioned Districts, shall cease to hold such Commission or office, or to exercise such lawful authority within the said new District to be declared as aforesaid, and that no jurisdiction, power or authority, of whatever nature or kind soever, to the said Districts, at the time of the formation of such new District as aforesaid belonging or appertaining, shall longer extend, or be construed to extend to the said new District.

Provision for support of District School.

VII. *And whereas* it is necessary to make provision for the establishment and support of Schools within the said new District, when the same shall be declared a separate District by virtue of this Act; *Be it therefore further enacted by the authority aforesaid*, That from and after the time that the same shall be declared and named a separate District as aforesaid, there be granted annually to Her Majesty, Her Heirs and Successors, from and out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, the sum of one hundred pounds; which said sum of one hundred pounds shall be appropriated, applied and disposed of, in paying the Teacher of the Public District School, which may be hereafter erected in the said new District.

District School to be opened at Bytown.

VIII. *And be it further enacted by the authority aforesaid*, That the said District School shall be opened and kept in the Town of Bytown, in the said District, at such place as the Trustees of the said District School, or a majority of them, may appoint.

District School to be established under similar regulations as those of other Districts.

IX. *And be it further enacted by the authority aforesaid*, That the said District School shall be established in like manner, and under the same rules, regulations and restrictions, in every particular, as shall be mentioned and provided in the several Acts of the Parliament of this Province, for the regulation of similar Schools in the other Districts of this Province, in force and operation at the time such School shall be established.

Provision for the support of Common Schools.

X. *And be it further enacted by the authority aforesaid*, That from and after the declaring and naming of the said new District as aforesaid, there be granted annually to Her Majesty, Her Heirs and Successors, from and

out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, the sum of two hundred and fifty pounds, which sum of two hundred and fifty pounds shall be appropriated, applied and disposed of, in the establishment of Common Schools in the said District, in manner and under the same rules, regulations, provisions and restrictions, in every particular mentioned, specified and contained, in the several Acts of the Parliament of this Province, for the regulation and support of the several Schools in the other Districts of this Province, which shall be in force and operation at the time such Schools shall be established: *Provided, nevertheless*, that nothing herein-contained shall be construed or taken to destroy, or abridge the right of such new District to participate in the monies appropriated to the use of Common Schools in this Province, by a certain Act of the Parliament of this Province, passed in the fourth year of the reign of His late Majesty King George the Fourth, entitled, “An Act to make permanent and to extend the provisions of the Laws now in force for the establishment and regulation of Common Schools throughout this Province, and for granting to His Majesty a further sum of money to promote and encourage Education within the same,” in addition to the above-mentioned sum of two hundred and fifty pounds.

Right of new District to participate in appropriations of money under 4 Geo. IV. c. 8. not abridged.

XI. *And be it further enacted by the authority aforesaid*, That the ordinary assessments and rates levied within the said Townships for the current year, at the time the said Townships shall be declared and named a separate District, by virtue of this Act, and all future assessments and rates to be levied therein shall be applied and expended for the like purposes within such new District, as they at that time might be applied and expended under and by virtue of any Act or Acts of the Parliament of this Province, in the Districts of Bathurst, Johnstown and Ottawa, except in so far as the same may be varied by this Act.

Rates to be levied and applied as in the Bathurst, Johnstown and Ottawa Districts.

XII. *And be it further enacted by the authority aforesaid*, That the Justices of the Peace within the said Townships be authorised, and they are hereby authorised, at a public meeting to be by them holden for that purpose, at some convenient place within the said Town of Bytown, so soon after the passing of this Act as may be convenient, a notice signed by two or more of the said Justices, fixing upon the time and place of such meeting, having been three weeks published in some newspaper within the Districts of Bathurst, Johnstown and Ottawa, previous to such meeting, to procure by such means as to the said Justices, or the greater part of them present at the said meeting shall seem fitting and proper, estimates and proposals for the building of a Gaol and Court House, subject, nevertheless, as respects the Gaol, to the provisions of a certain Act of the Par-

Justices authorised to obtain plans and estimates for Gaol and Court House.

liament of this Province, passed during the present Session, entitled, "An Act to regulate the future erection of Gaols in this Province."

Appointment of persons with whom contracts for Gaol and Court House may be made.

Duties of persons making such contracts.

Contractors to give security.

Justices to have like powers with those of other Districts in erecting Gaols, &c.

Clerk of Building Committee.

**XIII.** *And be it further enacted by the authority aforesaid,* That at the said meeting, as aforesaid, the Justices may nominate and appoint a Chairman and Treasurer and Clerk, and also three other persons, who, together with the said Chairman and Treasurer, shall compose a Building Committee, who shall be authorised, and they are hereby authorised and empowered, to contract for and superintend the erection and completion of the said Gaol and Court House, under the control of the said Justices, and in the name and on the behalf of the inhabitants of the said intended District, to contract with any person who shall desire to erect and finish the same, according to the plan approved of, agreeably to the Statute passed during the present Session, as aforesaid, upon the site or situation fixed by the authority of this Act, and for that purpose the plan, elevation and specification, of the said Gaol and Court House, shall continue and remain in the Office of the said Clerk for general inspection; and public notice shall be given to all persons desirous to contract for the building of the said Gaol and Court House, to deliver in, within a certain limited time, proposals in writing, under seal, of the sum of money for which he or they will engage to build and complete the same, conformable to certain articles and conditions, to be agreed upon by the said Committee, or a majority of them; and that the said Committee shall, on a day for that purpose previously to be fixed, openly examine the proposals so given in as aforesaid, and if they shall approve thereof, the said Committee shall be empowered, and they are hereby required, to contract with such person or persons as shall offer to undertake and build the said Gaol and Court House for the lowest price: *Provided*, the said person or persons making the said proposals shall give and enter into good and sufficient security, to be approved of by the said Justices, at some one of their meetings, as is hereinafter provided, for the due performance of his or their contract.

**XIV.** *And be it further enacted by the authority aforesaid,* That the said Justices, so assembled as aforesaid, shall have the like power and authority within the said Townships as the Justices of the Peace in other Districts of this Province, in General Quarter Sessions assembled, have by law, so far as relates to building Gaols and Court Houses in their respective Districts, and no further, unless provided for in this Act, and that they be authorised to adjourn the said meeting from time to time, and assemble again as often as the business relating to the building of the said Gaol and Court House shall seem to require; that the said Building Committee be under their control and direction, and that the Clerk record all the resolutions, rules and orders, of the said meetings,

in a book to be kept by him for that purpose; and if any vacancy or vacancies shall occur, of Chairman, Treasurer, Clerk, or other appointments of the said Committee, before the said Townships are declared and named a separate District, by death, resignation or removal, the said Justices shall be authorised to supply the vacancy so often as it may occur, by other appointments.

Vacancies in Building Committee may be supplied.

XV. *And whereas* it is expedient that until the said Townships be declared a separate District, that they should bear and contribute a just proportion of the ordinary expenses of the several Districts in which they respectively belong: *Be it further enacted by the authority aforesaid,* That from and out of the rates and assessments raised, levied and collected, in the said Townships, it shall and may be lawful for the Treasurers of the aforesaid Districts, annually to retain, for the purposes aforesaid, such a sum as a majority of the Magistrates, in General Quarter Sessions assembled, in the month of June next, shall ascertain and determine to be the just and equitable proportion of such expenses to be borne and paid by the said Townships; and it shall be the duty of the Treasurers of the several Districts, after deducting such sum, to pay over to the Treasurer to be appointed as hereinbefore directed, the balance of all rates and assessments raised, levied and collected, or which may hereafter be imposed, raised, levied and collected, in the said Townships, and shall be applicable to the general benefit of the said intended District, and may be applied by Her Majesty's Justices of the Peace residing within the said Townships, towards the erecting and building a Gaol and Court House therein; and the said Treasurers of the Bathurst, Johnstown, and Ottawa Districts, shall take receipts for the same, as the money shall be paid over, which receipts shall be allowed by the Justices of the aforesaid Districts, in their settlement with him.

Proportion of rates levied within intended new District to be retained by adjoining Districts.

Balance to be paid to Treasurer for new District, to be applied towards erecting Gaol and Court House.

XVI. *And be it further enacted by the authority aforesaid,* That the said Building Committee shall and may apply the said monies so received by the Treasurers of the aforesaid Districts from time to time towards the payment of any contract that they may make with any person whatsoever, for the building of the said Gaol and Court House, in conformity to the intentions of this Act.

Rates levied to be applied in payment of Contractors.

XVII. *And be it further enacted by the authority aforesaid,* That the said Committee shall keep a faithful and correct account of all monies expended by them in the erection of the said Gaol and Court House, and shall take vouchers for the same from the Contractor or Contractors, and also shall keep an account of all monies which may from time to time come into their hands applicable or available for the building the said Gaol

Building Committee to render detailed accounts to Quarter Sessions.



and Court House ; and that they shall exhibit a detailed statement both in debtor and creditor to the Justices of said intended District, at their first General Quarter Sessions of the Peace to be holden therein, after the same shall have been declared and named a separate District.

Magistrates authorized to raise loan of £2,500, for Court and Court House.

*XVIII. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Magistrates of the said District so assembled as aforesaid, and they are hereby empowered, by an order of such meeting, to authorise and direct the Treasurer, so to be appointed as aforesaid, to raise by loan, from such person who may be willing to advance the same on the credit of the rates and assessments to be raised, levied and collected, in the said intended District, a sum not exceeding two thousand five hundred pounds, to be applied in defraying the expense of building the said Court House and Gaol.*

Loan not to bear more than six per cent interest;

Annual liquidation of debt and interest.

*XIX. Provided always, and be it further enacted by the authority aforesaid, That the money so borrowed, under the authority of this Act, shall not bear a greater interest than six per centum per annum ; and that the Treasurer for the said intended District, for the time being, shall annually, until the loan so raised, with the interest accruing thereon, shall be paid and discharged, apply towards the payment of the same a sum not less than two hundred pounds, together with the lawful interest upon the whole sum which may from time to time remain due, from and out of the rates and assessments so coming into his hands, for the use of the said intended District.*

Treasurer not to be entitled to poundage on money raised by loan under this Act.

*XX. And be it further enacted by the authority aforesaid, That no Treasurer hereafter to be appointed, either by the said meeting, or by the Magistrates of the said intended District, shall be entitled or authorised to receive any poundage or per centage upon any sum or sums of money which shall or may be loaned under the authority of this Act, or which may come into his or their hands, or for paying out any sum or sums of money, in discharging and liquidating such loan, with the interest thereon, as aforesaid.*

Assessments on Osgoode and Gloucester meanwhile to be paid to Ottawa District.

*XXI. Provided, however, and be it further enacted by the authority aforesaid, That the assessments and revenues arising from the Townships of Osgoode and Gloucester, be annually paid to the Treasurer of the Ottawa District, to the uses of the said District, until its population shall increase to seven thousand five hundred.*

Montague, and parts of Elmsley and Burgess, North of the Rideau, to

*XXII. And be it further enacted by the authority aforesaid, That the Township of Montague, and so much of the Townships of Elmsley and*

Burgess as lie on the north shore of the Rideau waters, be attached to and form part of the District of Bathurst, and compose part of the County of Lanark, so soon as the proposed new District may go into operation. be annexed to the Bathurst District.

XXIII. *And be it further enacted by the authority aforesaid, That the Townships of Pakenham, McNab, Horton, Ross, Westmeath and Pembroke, together with the unsurveyed lands within the District of Bathurst, and all the Islands in the Ottawa River, wholly or in greater part opposite to the said Townships and unsurveyed lands, do from the time that the said new District goes into operation, compose a County, to be called the County of Renfrew.* Certain townships to constitute the county of Renfrew.

## CHAP. XXVI.

*AN ACT to authorise the erection of the County of Huron, and certain other Territory adjacent thereto, into a separate District.*

[Passed 6th March, 1838.]

**W**HEREAS the tract of Country lately sold by His Majesty's Government to the Canada Company, and commonly known by the name of the County of Huron, is now attached to the District of London: *And whereas, from the great extent of the said tract of land, and its great distance from the District Town of the London District, it is highly expedient and necessary that the said County of Huron should be set off into a distinct and separate District: Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,' and by the authority of the same, That so soon as it shall be made to appear to the satisfaction of the Lieutenant Governor, and the Executive Council of this Province, that a good and sufficient Gaol has been erected therein, for the accommodation of prisoners, and a suitable Court House for the accommodation of Courts of Justice; and also that the amount of assessments raised within the said County is sufficient to defray the necessary charges attending a separate District, then it shall and may be lawful for the Lieutenant Governor, by and with the advice and consent of Her Majesty's Executive Council for* Preamble.

County of Huron may be declared a separate District when Gaol and Court House erected;

Jurisdiction of Courts in the District of London not affected ;

Actions, &c. pending when new District declared, where to be tried ;

Gaol and Court House to be erected at Goderich.

Courts and Officers to have the same jurisdiction and privileges as are enjoyed in other Districts.

Legislative enactments relating to Gaols, &c. in force in other Districts to apply equally to new District.

the affairs of this Province, to declare, by Proclamation, the said County of Huron into a distinct and separate District, by such name as he may think proper: *Provided, nevertheless*, that nothing in this Act contained shall affect, or be construed to affect the Jurisdiction of Her Majesty's Court of King's Bench in this Province, or the Jurisdiction of the Courts of General Quarter Sessions of the Peace, or District Court, within the District of London: *Provided also*, that if at the time the said County shall be set off into a separate District, any action shall have been commenced, or be pending for any cause of action arising therein, or any indictment of any indictable offence that has been committed within the said County, the said action or indictment shall and may be tried at the next Assizes, or other Court in which the same may be pending, to be held in and for the London District, unless all the parties shall agree that the same shall not be tried in the said London District: *Provided always*, that such Gaol and Court House shall be erected in the Town of Goderich, in the County aforesaid.

II. *And be it further enacted by the authority aforesaid*, That the Courts of Oyer and Terminer and General Gaol Delivery, of Assize and Nisi Prius, the Courts of General Quarter Sessions of the Peace, District Court, Surrogate Court, Courts of Request, and every other Court and Jurisdiction, with all District Officers whatsoever, held or to be holden, possessed and enjoyed, in and by other Districts of this Province at the time of such Proclamation as aforesaid, shall from thenceforth, with the like powers and authority, be held and enjoyed in and by the said District, to be thereby declared and named by virtue of this Act ; and that all and every jurisdiction, regulation, rule, privilege, exemption, matter or thing, which shall or may have been enacted, provided and declared, by any Act or Acts of the Parliament of this Province, made or to be made, touching or concerning the said other Districts, and which shall be in force and operation at the time of such Proclamation as aforesaid, shall be and they are hereby extended from thenceforth to the District to be thereby declared and named as aforesaid, unless otherwise provided for by this Act, or any other Act of the Parliament of this Province.

III. *And be it further enacted by the authority aforesaid*, That all and every the rules and regulations, provisions, matters and things, contained in any Act or Acts of the Parliament of this Province for the regulation of or relating to Gaols, which shall be in force and operation at the time of declaring and naming such new District as aforesaid, shall be and are hereby from thenceforth extended to the said Gaol and Court House ; and that the aforesaid Courts of Oyer and Terminer and General Gaol Delivery, Assize and Nisi Prius, General Quarter Sessions of the Peace,

Surrogate, and every other of the aforesaid Courts, required to be held at a place certain, shall be commenced, and from time to time holden at the aforesaid Court House, to be erected by virtue of this Act.

Courts to be held at Goderich.

IV. *And be it further enacted by the authority aforesaid,* That from and after the declaring and naming the said County of Huron a separate District as aforesaid, the Court of General Quarter Sessions of the Peace, and sittings of the District Courts of the said District, shall be respectively commenced and held at the place hereinbefore appointed for that purpose, on the first Tuesday in January, April, July and October, in each and every year, and that the terms of the said District Court shall respectively commence on the Monday of the week next but one preceding the week in which the Court of Quarter Sessions, and sitting of the said District Court, are hereby appointed to be held, and such terms shall respectively end on the following Saturday.

Times at which Courts of General Quarter Sessions are to be held.

V. *And be it further enacted by the authority aforesaid,* That Her Majesty's Justices of the Peace, and other persons holding any commission or office, or bearing lawful authority, and who shall be residing within the County of Huron at the time it shall be declared and named a separate District as aforesaid, shall continue to hold, enjoy and exercise, the like commission, office, authority, power and jurisdiction, within that District, in the same manner that they previously held, enjoyed and exercised the same within the District of London: *Provided,* that the authority, power and jurisdiction, previously held, enjoyed and exercised, by Her Majesty's Justices of the Peace, and other persons bearing Commission or office or lawful authority within, and residing within the said County of Huron, shall not in anywise be longer exercised or continued within the District of London, but that the same within that District shall from thenceforth cease and determine: *Provided,* that after naming and declaring such new District as aforesaid, Her Majesty's Justices of the Peace, and others who thenceforward continue to hold Commission or office, or bear lawful authority within the District of London, shall cease to hold such Commission or office, or to exercise such lawful authority within the said new District to be declared and named as aforesaid, and that no jurisdiction, power or authority, of whatever nature or kind soever, to the said London District, at the time of the formation of such new District as aforesaid belonging or appertaining, shall longer extend, or be construed to extend to the said new District.

Authority of Justices residing within the County of Huron to continue when declared a District;

But thenceforward to cease within the District of London;

And Justices of London District in like manner to cease within the new District.

VI. *And be it further enacted by the authority aforesaid,* That the ordinary assessments and rates levied within the said County of Huron, for the current year, at the time the said County shall be declared and

Rates to be levied and applied as by law appointed in District of London.

named a separate District, by virtue of this Act, and all future assessments and rates to be levied therein shall be applied and expended for the like purposes, within such new District, as they at that time might be applied and expended under and by virtue of any Act or Acts of the Parliament of this Province, in the District of London, except in so far as the same may be varied by this Act.

Provision for support of District School.

VII. *And whereas*, it is necessary to make provision for the establishment and support of Schools within the said County, when the same shall be declared a separate District by virtue of this Act: *Be it therefore further enacted by the authority aforesaid*, That from and after the erection of the said County into a separate District, there be granted annually to Her Majesty, Her Heirs and Successors, out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, the sum of one hundred pounds; which said sum of one hundred pounds shall be appropriated, applied and disposed of, in paying the salary of the Teacher of the Public District School, which may be hereafter erected in the said District.

District School to be established according to laws affecting other District Schools.

VIII. *And be it further enacted by the authority aforesaid*, That the said District School shall be established in like manner, and under the same rules and regulations and restrictions, in every particular, as shall be mentioned and provided in the several Acts of the Parliament of this Province, for the regulation of similar Schools in the other Districts of this Province, in force and operation at the time such School shall be established.

Provision for support of Common Schools.

IX. *And be it further enacted by the authority aforesaid*, That from and after the erection of the said County into a separate District, there be granted annually to Her Majesty, Her Heirs and Successors, from and out of the monies now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and unappropriated, the sum of two hundred and fifty pounds; which sum of two hundred and fifty pounds shall be applied and disposed of in the establishment of Common Schools in the said District, in manner and under the same rules, regulations, provisions and restrictions, in every particular mentioned, specified and contained, in the several Acts of the Parliament of this Province, for the regulation and support of Common Schools in the other Districts of this Province, which shall be in force and operation at the time such Schools shall be established: *Provided, nevertheless*, that nothing herein contained shall be taken or construed to destroy or abridge the right of the said new District to participate in the monies appropriated to the use of Common Schools in this Province, by an Act of the Parliament of this Province, passed in the fourth year of His late Majesty's reign,

Right of new District to participate in appropriations of money under 4 Geo. IV. c. 8. not abridged.

entitled, “An Act to make permanent and extend the provisions of the Laws now in force for the establishment and support of Common Schools throughout this Province, and for granting to His Majesty a further sum of money to promote and encourage education within the same,” in addition to the above-mentioned sum of two hundred and fifty pounds.

X. *And be it further enacted by the authority aforesaid,* That the said Justices of the Peace within the said County be authorised, and they are hereby authorised, at a public meeting to be by them holden for that purpose, at some convenient place in the Town of Goderich, so soon after the passing of this Act as may be convenient, a notice signed by two or more of the said Justices, fixing upon the time and place of such meeting, such notice having been three weeks published in some Newspaper in the London District, or in some Newspaper published within the said County, previous to such meeting, to procure by such means as to the said Justices, or to the major part of them present at such meeting shall seem fitting and proper, estimates and proposals for the Building of a Gaol and Court House, subject nevertheless as respects the Gaol to the provisions of a certain Act of the Parliament of this Province, passed during the present Session, entitled, “An Act to regulate the future erection of Gaols in this Province.”

Justices authorised to obtain plans and estimates for Gaol and Court House.

XI. *And be it further enacted by the authority aforesaid,* That at the said meeting the Justices may nominate and appoint a Chairman, Treasurer and Clerk, and also three other persons, who together with the said Chairman and Treasurer shall compose a Building Committee, who shall be authorised, and they are hereby authorised and empowered, to contract for and superintend the erection and completion of the said Gaol and Court House, and in the name and on behalf of the inhabitants of the said intended District, to contract with any person who shall desire to erect and finish the same, according to the plan approved of agreeably to the Statute passed during the present Session as aforesaid, upon the site fixed upon by this Act, and for that purpose the plan, elevation and specification, of the said Gaol and Court House shall continue and remain in the office of the said Clerk of the Peace for general inspection; and public notice shall be given to all persons desirous to contract for the building the said Gaol and Court House, to deliver in within a certain limited time proposals in writing under seal, of the sum of money for which he or they will engage to build and complete the same, conformably to certain articles and conditions to be agreed upon by the said Committee, or a majority of them; and that the said Committee shall, on a day for that purpose previously to be fixed, openly examine the said proposals so given in as aforesaid, and

Appointment of persons with whom contracts may be entered into for Gaol and Court House.

Mode of proposing for contracts;

Contractor to give security for performance of contract.

if they shall approve thereof, the said Committee shall be empowered, and they are hereby required to contract with such person as shall offer to undertake and build the said Gaol and Court House for the lowest price ; *Provided* the said person making the said proposals shall give and enter into good and sufficient security, to be approved of by the said Justices at some one of their meetings as is herein provided, for the due performance of his contract.

Justices to have like powers with those of other Districts in erection of Gaols, &c.

XII. *And be it further enacted by the authority aforesaid,* That the said Justices so assembled as aforesaid, shall have the like power and authority within the said County of Huron as the Justices of the Peace in other Districts of this Province, in General Quarter Sessions of the Peace assembled have by law, so far as relates to building Gaols and Court Houses in their respective Districts and no further, unless expressly provided for by this Act ; and that they be authorised to adjourn the said meeting from time to time, and assemble again as often as the business relating to the building of the said Gaol and Court House shall seem to require ; that the said Building Committee be under their control and direction, and that the Clerk record all the resolutions, rules and orders, of the said meetings in a book to be kept by him for that purpose ; and if any vacancy shall occur of Chairman, Treasurer, Clerk or other appointment of the said Committee, before the said County is declared and named a separate District, either by death, resignation or removal, the said Justices shall be authorised to supply the vacancy so often as it may occur by other appointments.

To control Building Committee.

Proportion of rates levied within intended District, on behalf of District of London.

XIII. *And whereas,* it is just and expedient, that until the said County of Huron be declared a separate District, the said County shall bear and contribute a just proportion of the ordinary expenses of the District of London : *Be it therefore further enacted by the authority aforesaid,* That from and out of the rates and assessments raised, levied and collected, in the said County, it shall and may be lawful for the Treasurer of the London District annually to retain, for the purposes aforesaid, such a sum as the majority of the Magistrates, in General Quarter Sessions assembled in the month of April next, shall ascertain and determine to be the just and equitable proportion of such expenses to be borne and paid by the aforesaid County of Huron ; and it shall be the duty of the Treasurer of the London District, after deducting such sum, to pay over to the Treasurer to be appointed as hereinbefore directed, the balance of all rates and assessments raised, levied and collected, or which may hereafter be imposed, raised, levied and collected, in the said County of Huron, which shall be applicable to the general benefit of the said intended District, and may be applied by Her Majesty's Justices of the Peace residing

Balance to be paid to Treasurer of new District,

and may be applied towards erecting Gaol and Court House.

within the said County, towards the erecting and building a Gaol and Court House therein; and the said Treasurer of the London District shall take receipts for the same as the money shall be paid over, which receipts shall be allowed by the Justices of the said District of London, in their settlement with him.

XIV. *And be it further enacted by the authority aforesaid,* That the said Building Committee shall and may apply the said monies so received by the Treasurer, to be appointed as aforesaid, from the Treasurer of the District of London, from time to time, towards the payment of any contract that they may make with any person whomsoever for the building of the said Gaol and Court House, in conformity to the intention and true meaning of this Act.

Monies so received may be applied in payment of Contractors for Gaol &c.

XV. *And be it further enacted by the authority aforesaid,* That the said Committee shall keep faithful and true accounts of all monies expended by them in the erection of the said Gaol and Court House, and shall take vouchers for the same from the Contractor; and also shall keep an account of all monies which may from time to time come into their hands, applicable to the building of the said Gaol and Court House: and that they shall exhibit a detailed account, both in debtor and creditor, to the Justices of the said new District, at their first Court of General Quarter Sessions of the Peace, to be holden therein, after the same shall have been declared and named a separate District.

Building Committee to render detailed accounts to Quarter Sessions.

XVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Magistrates of the said County, so assembled as aforesaid, and they are hereby empowered, by an order of such meeting, to authorise and direct the Treasurer so to be appointed as aforesaid, to raise, by loan, from such person as may be willing to lend the same upon the credit of the rates and assessments to be raised, levied and collected, in the said intended District, a sum not exceeding six thousand pounds, to be applied in defraying the expenses of building the said Gaol and Court House.

Magistrates empowered to raise £6000, by loan:

For expenses of Gaol and Court House.

XVII. *Provided always, and be it further enacted by the authority aforesaid,* That the money so borrowed, under the authority of this Act, shall not bear a greater interest than six per centum per annum; and that the Treasurer of the said intended District shall annually, until the loan so raised, with the interest accruing thereon, shall be paid and discharged, apply towards the payment of the same a sum not less than two hundred pounds, together with the lawful interest on the whole sum which may

Loan not to bear more than six per cent interest;

Annual liquidation of debt and interest.



from time to time remain due, from and out of the rates and assessments so coming into his hands, for the use of the said intended District.

Treasurer not entitled to poundage &c. on such loan

XVIII. *And be it further enacted by the authority aforesaid,* That no Treasurer hereafter to be appointed, either by the said meeting or by the Magistrates of the said intended District, shall be entitled or authorised to receive any poundage or per centage upon any sum or sums of money which shall or may be loaned under the authority of this Act, or which may come into his hands for the purpose of being paid out in discharge or liquidation of such loan, with the interest thereon as aforesaid.

Additional tax for liquidation of debt.

XIX. *And whereas,* it is expedient that the said loan of six thousand pounds, authorised to be contracted by this Act, should be paid off and discharged within a reasonable time, and it is necessary to make provision for the liquidation of the same: *Be it therefore further enacted by the authority aforesaid,* That it shall and may be lawful for the Justices of the Peace of the said County, so soon as the said County shall be declared by Proclamation to be a distinct and separate District, to order an additional tax of one penny in the pound to be levied on the inhabitants of the said new District, over and above the ordinary rates and assessments now authorised by law; which additional tax shall continue to be levied and collected from the inhabitants of said new District, until the said loan of six thousand pounds, and all arrears of interest which may have accrued thereon, be liquidated and discharged.

Duty of Clerk of the Peace and Collectors in relation to such additional rate.

XX. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Clerk of the Peace of the said new District, to add the said additional tax of one penny in the pound to the assessment rolls of the several Townships in the said District, and it shall be the duty of the Collectors of the several Townships to collect all monies authorised to be raised by this Act, and to pay the same over to the Treasurer of the District, together with the ordinary assessments of the District authorised by law.

Application of money raised by virtue of this Act.

XXI. *And be it further enacted by the authority aforesaid,* That the Justices of the Peace for and residing within the said County, shall expend the monies raised under the authority of this Act, in the erection of a Gaol and Court House, for the use of the said new District, and for no other purpose whatsoever.

Percentage not to be allowed to Treasurer, &c. of London District.

XXII. *And be it further enacted by the authority aforesaid,* That no per centage be allowed to the Treasurer of the London District, nor to any Treasurer or Collector on any monies raised by virtue of this Act.

XXIII. *And be it further enacted by the authority aforesaid,* That on any future survey of the territory lying to the northward of the said County of Huron, one range of Townships lying immediately contiguous to the northerly boundary of the said County, shall be attached to and become part of the said intended new District; and that at any convenient time subsequent to the survey of the said range of Townships as aforesaid, it shall and may be lawful to and for the Governor, Lieutenant Governor, or Person Administering the Government of this Province, by and with the advice and consent of Her Majesty's Executive Council for the affairs thereof, to divide the said new District into two Counties, under such names and with such limits as may be expedient.

Provision respecting  
future addition to the new  
District on the north.

## CHAP. XXVII.

*AN ACT to Incorporate the Town of Kingston, under the name of  
"The Mayor and Common Council of the Town of Kingston."*

[Passed 6th March, 1838.]

**WHEREAS** the Incorporation of the Town of Kingston, in consequence of its increase, has become advisable and necessary for the improvement and prosperity of said Town: *Be it therefore enacted,* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That an Act passed in the forty-first year of the reign of His Majesty King George the Third, entitled, "An Act to empower the Commissioners of the Peace for the Midland District, in their Court of General Quarter Sessions, to establish and regulate a Market in and for the Town of Kingston, in the said District"; and also an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, entitled, "An Act to make more ample provision for regulating the Police of the Town of Kingston"; and also an Act passed in the seventh year of the reign of His late Majesty King George the Fourth, entitled, "An Act to repeal part and extend the provisions of an Act passed in the fourth year of His Majesty's reign, entitled, 'An Act to make more ample provision for regulating the

Preamble.

Police of the Town of Kingston"; and also an Act passed in the Parliament of this Province in the seventh year of the reign of His late Majesty King William the Fourth, entitled, "An Act authorising the Magistrates of the Midland District to make rules and regulations for the prevention of accidental fires in the Town of Kingston, and for other purposes therein-mentioned"; and also so much of an Act passed in the sixth year of the reign of His late Majesty King George the Fourth, entitled, "An Act for the better regulating the Assize, and fixing the price of Bread in the several Police Towns throughout this Province," as applies to the Town of Kingston, in the Midland District, be and the same are hereby repealed.

Limits of Kingston to be defined by Justices in Quarter Sessions.

II. *And be it further enacted by the authority aforesaid*, That the Justices of the Peace of the Midland District, in General Quarter Sessions, on or before the first day of April next, be and they are hereby authorised and required to define and establish the limits between the said Town and Township, including within the said Town the tracts of land called Park Lots number one and two, granted from the Crown to Sir John Johnson, and Ann Earl respectively; the lot of land on the eastern side of the original Town plot of Kingston, granted to Magdalen Ferguson; and also Lot number twenty-five, in the first Concession of the said Township of Kingston, granted from the Crown to Michael Grass.

Divided into four wards.

III. *And be it further enacted by the authority aforesaid*, That the said Town shall be and the same is hereby divided into four Wards.

Limits of ward No. one.

IV. *And be it further enacted by the authority aforesaid*, That Ward Number One shall consist of all that part of the said Town which lies west of Brock-street, and south of Grass-street, to the line of Lot number twenty-four, in the first Concession of the Township of Kingston.

Limits of ward No. two.

V. *And be it further enacted by the authority aforesaid*, That Ward Number Two shall consist of all that part of the said Town which lies west of Brock-street, and north of Grass-street, to the line of the said Lot number twenty-four.

Limits of ward No. three.

VI. *And be it further enacted by the authority aforesaid*, That Ward Number Three shall consist of all that part of the said Town which lies east of Brock-street, and south of Quarry-street.

Limits of ward No. four.

VII. *And be it further enacted by the authority aforesaid*, That Ward Number Four shall consist of all that part of the said Town which lies east of Brock-street, and north of Quarry-street, including the land granted to Magdalen Ferguson, to the line of the said Lot number twenty-four.

VIII. *And be it further enacted by the authority aforesaid,* That the Harbour shall consist of all that part of the River and Bay opposite the said Town. Limits of the Harbour.

IX. *And be it further enacted by the authority aforesaid,* That all the Inhabitants of the said Town shall be, and they and their successors, Inhabitants aforesaid, from time to time, and at all times hereafter, shall continue to be one body, corporate and politic, in fact and in name, by the name of the “Commonalty of the Town of Kingston.” Style of the Corporation.

X. *And be it further enacted by the authority aforesaid,* That for every Ward within the limits of the said Town, one Alderman and one Common Council-man shall be chosen, in manner hereinafter mentioned; and the Aldermen and Common Council-men shall choose a Mayor from among the inhabitants duly qualified, as hereinafter mentioned, by vote of the majority of such Aldermen and Common Council-men, in person, to be a Mayor of the said Town; and in case it shall happen that the votes shall be equally divided, then that Alderman who shall have been rated upon the last Assessment List of the said Town for the greatest amount of property, shall give a second or casting vote, and that one-fourth of the said Aldermen and Common Council-men shall retire in each year, by rotation, the order in the first instance to be by ballot, and afterwards in succession, but that they shall be capable of being re-elected. One Alderman and Common Council-man for each ward.  
Choice of Mayor;  
When equality of votes;  
One fourth to retire annually.

XI. *And be it further enacted by the authority aforesaid,* That the Legislative power of the Town of Kingston shall be, and is hereby vested in the Mayor, Aldermen and Common Council-men, who together shall form the Common Council of the said Town. Jurisdiction of the Corporation.

XII. *And be it further enacted by the authority aforesaid,* That every Legislative Act of the said Town be expressed to be enacted by the Mayor, Aldermen and Commonalty, of the Town of Kingston, in Common Council assembled. Style of enactments.

XIII. *And be it further enacted by the authority aforesaid,* That the Town of Kingston shall not have authority, by Act of Common Council or otherwise, to borrow any sum of money whatever, on the credit of the said Town, except in anticipation of the revenue to accrue within five years next after such loans shall be made, unless authorised by Act of Parliament: *Provided always,* that nothing in this clause contained shall be construed to prevent the said Town, by Act of Common Council or otherwise, from borrowing a sufficient sum of money to provide for the erection of a new Market-House in the said Town. Jurisdiction of Corporation in respect to raising loans.

Rate of assessments.

XIV. *And be it further enacted by the authority aforesaid, That the Assessment shall not exceed Six Pence in the Pound in any one year.*

Time &amp; mode of elections.

XV. *And be it further enacted by the authority aforesaid, That Aldermen and Common Council-men of the said Town shall be chosen in each of the said Wards, on the last Tuesday in March, and that the Officer or Officers whose duty it shall be to hold such Election, shall, five days previous thereto, give public notice thereof, in writing, in at least three public places in such Ward, of the place where such Election shall be held, and that they shall be sworn in on the following Monday, by the Judge of the District Court, or the Chairman of the Quarter Sessions.*

When Aldermen &amp;c. to be sworn in.

From whom the Mayor to be chosen.

XVI. *And be it further enacted by the authority aforesaid, That the Mayor of the said Town shall be elected by a majority of votes of the Aldermen and Common Council-men, from among the inhabitants of the said Town: Provided always, that no person shall be eligible to be elected a Mayor of the said Town, unless he shall have been resident within the said Town for the space of ten years next before his election, and being so resident at the time of such election, shall be possessed, to his own use and benefit, of real property within the said Town, either in freehold or for a term of years, which shall be assessed under this Act at seventy-five pounds, or in the receipt of seventy-five pounds or upwards, of yearly rent or profit, accruing from or out of real property within the said Town.*

His qualification.

Returning Officer or his Clerk, not eligible to be elected, or to vote;

XVII. *And be it further enacted by the authority aforesaid, That neither the Officer holding any Election for Aldermen or Common Council-men of the said Town, nor any Clerk or Assistant employed by him in holding such Election, or taking the votes at the same, shall be eligible to be a Candidate at any such Election; nor shall any such Officer, Clerk, or Assistant, vote at any such Election: Provided always, nevertheless, that in the event of there being, at the conclusion of the Poll, an equal number of votes polled at any such Election, for two or more persons, for the same office, it shall and may be lawful to and for the Officer holding such Election, and he is hereby required, whether otherwise qualified or not, to give a vote in favor of one or the other of the persons having such equality of votes, in order that the Election may be completed.*

Except in case of equality of votes.

Persons exempted from serving in the Corporation.

XVIII. *And be it further enacted by the authority aforesaid, That neither any Minister or Clergyman, in Holy Orders of any religious persuasion, nor any of the Judges of the Court of King's Bench or District Court, or Her Majesty's Attorney or Solicitor General, nor any practising Physician*

or Surgeon, shall be compelled to serve in any of the Municipal Offices created by or under the authority of this Act.

XIX. *And be it further enacted by the authority aforesaid,* That until provision shall have been made by Act of Common Council for a registry of votes, every person offering to vote at any election for Aldermen or Common Council-men, before he be permitted to vote, shall, if required by the Presiding Officer at any such election, or by any person qualified to vote thereat, make oath or affirmation of the particulars of his qualification, and that he has not before voted at said election, which oath or affirmation the said Presiding Officer is hereby authorised and required to administer. Voters' oath of qualification.

XX. *And be it further enacted by the authority aforesaid,* That if there shall happen any vacancies in the Officers elected for any Ward of the said Town, by death, resignation, removal out of Town, or other disqualification, before the return of another election, it shall be lawful for the Common Council to direct an election to supply such vacancy in the office and Ward, when and where the same shall happen, and to appoint a time and place for holding such election in such Ward, previous notice of such time and place being given in at least three public places in such Ward, in manner hereinbefore mentioned; and such election shall in other respects be held and conducted in like manner as the regular elections in the said Town are to be held and conducted: *Provided always,* that any person elected to supply any such vacancy, shall hold his office only for the residue of the term of office of his immediate predecessor. Elections to supply vacancies in municipal offices: Office to be held till end of predecessors time only.

XXI. *And be it further enacted by the authority aforesaid,* That in the Court of Common Council, two Aldermen, and two Common Council-men, together with the Mayor, shall form a quorum for the despatch of business: *Provided always,* that a smaller number may adjourn from time to time, and may be authorised to compel the attendance of absent Members, in such manner and under such penalties as may be provided by Act of Common Council. How many to form a quorum; Smaller number competent to adjourn.

XXII. *And be it further enacted by the authority aforesaid,* That the Mayor, or in his absence from sickness or otherwise, a Member, being the senior Alderman, shall preside at the meetings of the Common Council, and that the said Mayor or President *pro tempore*, shall, in all cases when the votes are equal, be entitled to the casting vote. President of the Common Council.

Special meetings ;

Election in case of vacancy in Mayoralty.

XXIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Mayor of the said Town to call special meetings of the Common Council ; and in case of his death or removal from the Town, it shall be lawful for the remaining Aldermen, at a special meeting to be summoned by the Clerk of the Common Council for that purpose, within three days, to elect from among the inhabitants duly qualified, a successor to such Mayor, who shall hold his office for the remainder of the term of service of his immediate predecessor, which Mayor shall be sworn into office by the Judge of the District Court or Chairman of the Quarter Sessions of the Midland District.

Mayor, Aldermen, &amp;c. not to receive salaries.

XXIV. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for the Mayor, Aldermen or Common Council-men, of the said Town, to receive any salary.

Common Council a Court of record, &amp;c.

XXV. *And be it further enacted by the authority aforesaid,* That the said Common Council shall be and is hereby declared to be a Court of Record, and it shall have the same power to punish for contempt, as is by law vested in any other Court of Record.

Officers of the Corporation ;

Their Salaries ;

Removable for misconduct ;

Treasurer of Midland District may be Treasurer to the Common Council.

XXVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Common Council of the said Town to appoint a Clerk, a Treasurer and a High Bailiff, in and for the said Town, with such salaries as they may think proper: *Provided always,* that such salaries shall not exceed the sum of one hundred pounds each: *And provided also,* that it shall and may be lawful for the said Common Council to remove either of such Officers for misconduct, and to appoint another in the place of such removed Officer: *And provided also,* that in the event of either of the said offices becoming vacant by death, resignation or removal from the said Town, it shall be lawful for the said Common Council to appoint to the vacant office: *And provided also,* that nothing in this clause contained shall be construed to prevent the Common Council to appoint the Treasurer of the Midland District for the time being to the office of Treasurer of the said Town, if the said Common Council shall see fit, and also the Clerk of the Peace of the Midland District to be their Clerk.

Duties of the Clerk of the Common Council.

XXVII. *And be it further enacted by the authority aforesaid,* That the said Clerk so to be chosen and appointed, shall receive, have and take, charge of and keep such writings and papers belonging to the Mayor, Aldermen and Common Council-men, of the Town of Kingston, as the Mayor of the said Common Council shall direct from time to time, or order to be delivered to and kept by the said Clerk, so from time to time

to be appointed, under the direction and subject to the order and control of the said Common Council.

**XXVIII.** *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Common Council, from time to time, to appoint one or more Clerks of the Market; one Surveyor of Streets; one Harbour Master; one or more Inspectors of Beef, Pork, Flour, Pot and Pearl Ashes, and one Pound-keeper, for the said Town; and one Assessor and one Collector for each Ward of said Town; and to prescribe the duties of such Officers respectively, and at their pleasure to remove any such Officer and appoint another in his place; and that so much of the Acts of the Parliament of this Province as may regard the nomination and appointment of any such Officer or Officers for that part of the Province hereby declared to be the Town of Kingston, shall be and the same are hereby repealed: *Provided always nevertheless,* that the Assessors and Collectors to be appointed for the said Town respectively, shall perform all such duties as before the passing of this Act were to be performed by the Assessors and Collectors for the Town of Kingston, in order to the collecting and paying over into the general funds of the Midland District the rates and assessments to be levied and raised upon the inhabitants of said Town under the general assessment Act of this Province, which rates and assessments shall continue to be paid and applied as before the passing of this Act; and that the said Common Council shall make such order as shall be necessary respecting the paying over and accounting for the said rates and assessments by the Collectors and the proper Officers to the Treasurer of the Midland District.

Appointment of Clerks of the market, and other subordinate Officers;

Special duties of Assessors and Collectors.

**XXIX.** *And be it further enacted by the authority aforesaid,* That if any person shall refuse to pay the sum or rate for which he stands rated in manner aforesaid, after demand duly made of the same, by the Collector to be appointed by the said Corporation for that purpose, the said Collector shall, and he is hereby required to levy the same, by distress and sale of the goods and chattels of the person so neglecting or refusing to pay, after having obtained a warrant for that purpose from some one of Her Majesty's Justices of the Peace in and for the Midland District, who is hereby authorised to grant the same, upon information made on oath before him of the neglect or refusal to pay the said assessment; and to render the overplus, if any there be, over and above the said rate, to the owner thereof, after deducting the legal charges of the distress and sale.

Liability for non-payment of rates;

Distress and sale;

Overplus to be returned.

**XXX.** *And be it further enacted by the authority aforesaid,* That the Justices of the Peace of the said District, in Quarter Sessions assembled, shall from time to time employ so many Bailiffs and Constables

Appointment and remuneration of Bailiffs and Constables.



for the said Town as to the Common Council shall seem necessary and proper, and pay them such sum per annum, out of the funds of said Town, for their services, as to the said Common Council shall appear just, and shall allow to the Collectors, Assessors and other inferior Officers of the said Town, such remuneration as to the said Council shall seem meet.

Finance accounts to be published annually.

XXXI. *And be it further enacted by the authority aforesaid,* That the Common Council shall be required to publish half yearly, in the Newspapers of said Town, a detailed account of the state of the finances of the said Town, and also a detailed account of the receipt and expenditure of all sums of money that may have been paid into the Town already.

Journal to be kept, and discussions to be open.

XXXII. *And be it further enacted by the authority aforesaid,* That the said Council shall keep a journal of its proceedings, and all discussions shall be open to the public, unless three members shall require otherwise: *Provided always nevertheless,* that upon all proposals, discussions, debates, resolutions or other proceedings, of the said Court of Common Council, of or concerning the raising, levying or imposing, any rates, taxes or assessments, or requiring the performance of any duty or service by the inhabitants of said Town, or any of them, the same shall be proposed, discussed, debated and resolved on and determined in open Court, accessible to the inhabitants of the said Town, any thing herein contained to the contrary thereof notwithstanding.

Common Council to determine its rules, and judge of qualifications, &c.

XXXIII. *And be it further enacted by the authority aforesaid,* That the said Common Council shall determine the rules of its proceedings, and judge of the qualifications, elections and returns of its Members.

Certain Resolutions to be published before the same can take effect.

XXXIV. *And be it further enacted by the authority aforesaid,* That all Resolutions and Reports of Committees, which shall recommend any specific improvement involving the appropriation of any public money, shall be published in at least one Newspaper a week, and every measure for taxing or assessing the inhabitants of the said Town, or for imposing fines, shall be published ten days before the same shall be adopted, and after adoption shall be published fifteen days before it shall have effect.

Common Council may punish its members for misconduct.

XXXV. *And be it further enacted by the authority aforesaid,* That the said Common Council shall have authority to punish its Members for disorderly behaviour, and to expel a Member convicted of an infamous crime, and that the Member so expelled shall by such expulsion forfeit all his right and power as Alderman or Common Council-man, as the case may be.

XXXVI. *And be it further enacted by the authority aforesaid,* That immediately after any Act shall be passed by the Common Council, it shall be signed by the Mayor, and sealed with the Seal of the Corporation, and enrolled; and such Act shall thenceforth go into effect, as a law of the Town of Kingston; and all such laws, together with this Act, and all other Acts of Parliament particularly relating to the said Town, shall be entered, verbatim, in a book to be kept by the Clerk, and signed by the Mayor, and be open to the public for inspection, between the hours of eleven of the clock, A. M. and two of the clock, P. M. on payment to the Clerk of three pence, and no more, for every examination.

Acts of the Common Council to be signed by the Mayor, sealed and enrolled;

And open to inspection.

XXXVII. *And be it further enacted by the authority aforesaid,* That the Council shall meet on the first Monday of every month, in each year, at the least.

Meetings of Common Council.

XXXVIII. *And be it further enacted by the authority aforesaid,* That it shall be lawful for the Mayor and Common Council of the Town of Kingston, to regulate and license owners of Livery Stables, and to regulate and license the owners and keepers of Hackney Coaches, and of Horse Phætons, Chairs, Sleighs, Sleds, Waggons, Carts, and Carriages of every description, used for hire or reward in the said Town.

Authority of Common Council in respect to licences.

XXXIX. *And be it further enacted by the authority aforesaid,* That upon the trial of any issue, or upon the taking or making of any inquiry, or upon the judicial investigation of any fact whatsoever, to which issue, inquest or investigation, the said Town, or the Mayor, Aldermen and Common Council-men thereof, or either of them, are a party, or in which they are interested, no person shall be deemed an incompetent Witness or Juror, by reason of his being an Inhabitant Freeholder or Freeman of the said Town; and if any person shall be sued or impleaded by reason of any thing done by virtue of this Act, it shall be lawful for such person to plead the general issue, and to give this Act and the special matter in evidence at the trial.

In suits where Corporation or its members are interested, inhabitants &c. not incompetent as Witnesses or Jurors;

This Act may be given in evidence under general issue.

XL. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Common Council, from time to time to appoint so many of the members thereof as shall be thought necessary to form a Board of Health, to aid and assist the Mayor of the said Town to carry into effect the provisions of the Statutes which now are, or may be passed, to preserve the health of the said Town, and to prevent the introduction and spreading of infectious and pestilential diseases in the same; and the said Board, in conjunction with the Mayor, shall have the like power and authority for the purposes aforesaid, as are vested in

Common Council may appoint Board of Health.

Boards of Health established under the provisions of an Act passed in the third year of His late Majesty's reign, entitled, "An Act to establish Boards of Health, and guard against the introduction of malignant, contagious, and infectious diseases, in this Province."

Powers and duties of Clerk of the market.

**XXI.** *And be it further enacted by the authority aforesaid,* That the person appointed as aforesaid Clerk of the Market shall, during his continuance as such Clerk, under the direction of the Mayor, inspect the weights, measures and balances, that shall or may be used in any market in the said Town of Kingston, and seize and destroy such as are not according to the established standard; and also to inspect all meats and fish that may be exposed for sale in such market, and seize and destroy such as may be tainted or otherwise unfit to eat; and also inspect the stalls in such market, and cause the occupants to keep them clear; and also to enquire into the conduct of all persons who shall expose for sale or vend any provisions in such market, and whether they, or any of them, are guilty of a breach of any of the by-laws of the Common Council, and report all offenders against such by-laws, to the Clerk of the Common Council, whose duty it shall be forthwith to prosecute the offenders for the penalties annexed to their several offences.

Authority of Common Council in the apprehension and punishment of rogues and vagabonds.

**XXII.** *And be it further enacted by the authority aforesaid,* That the Mayor or Aldermen, or any one or more of them, shall have full power and authority to take up and arrest, or order to be taken up and arrested, all rogues, vagabonds, drunkards, and disorderly persons, and as the said Mayor, Aldermen, or any two of them, shall see fit or cause to order, all or any such rogues, vagabonds, drunkards, and disorderly persons, to be committed to any Work-house that may hereafter be erected, or else to any House of Correction or Gaol, there to receive such punishment, not exceeding three days imprisonment, or the common Stocks, as the said Mayor or Aldermen, or any two of them, shall think fit.

Market square vested in the Common Council.

**XXIII.** *And be it further enacted by the authority aforesaid,* That the Market-square be, and the same is hereby conveyed to and vested in the said Town of Kingston, to hold to the said Town of Kingston, for ever, to and for the public uses of the said Town, to be superintended and managed, as the said Town, by Act of Common Council, shall or may from time to time direct.

General powers of the Body Corporate within the town of Kingston.

**XXIV.** *And be it further enacted by the authority aforesaid,* That the said Town of Kingston shall, by its Representatives in whom the Legislative power of the Town shall be vested, as hereinbefore mentioned, have full power and authority, from time to time to make, revise, alter,

amend, administer and enforce, such laws as they may deem proper, for making, gravelling, flagging, paving, pitching, levelling, raising, repairing, mending, lighting, macadamizing, and cleansing any of the streets, squares, alleys, lanes, walks, side-walks, cross-walks, roads, highways, bridges, public wharves, docks, slips, shores and sewers, now laid out or erected, or hereafter to be laid out or erected, within the limits of the said Town; to regulate or restrain cattle, horses, sheep, goats, swine, and other animals, geese or other poultry, from running at large within the limits of the said Town; and to prevent and regulate the running at large of dogs, and to impose a reasonable tax upon the owners or possessors thereof; to regulate, or prevent, the incumbering or injuring of the streets, squares, lanes, walks, side-walks, cross-walks, roads, highways, bridges, public wharves, docks and slips, with any wheel-barrows, carts, carriages, lumber, stone, or other materials whatsoever; to regulate or prevent the selling or vending, by retail, in the public highways, any meat, vegetables, fruit, cakes, cider, beer, or other beverage whatsoever; to prevent the sale of any strong or intoxicating drink to any child, or apprentice or servant, without the consent of his legal protector; to prevent the immoderate riding or driving horses, or other cattle, in any of the public highways of the said Town; to prevent the leading, riding or driving, horses upon the side-walks of the streets, or other improper places; to regulate wharves and quays; to prevent all obstructions in the Bay, Harbour or River, near or opposite to any dock, wharf or slip; to regulate or prevent the fishing with nets or seines, the use of fishing lights, or the erecting or use of weirs for eels, or other fish; to prevent or regulate bathing and swimming in and about the docks, wharves, slips and shores, within the limits of the said Town; to suppress tippling-houses, and restrain persons from keeping the same; to enforce the due observance of the Sabbath; to regulate the licensing of, or to prevent the exhibition of wax figures, wild animals, mountebanks, and all other shows exhibited by common show-men; to prevent the excessive beating, or other inhuman treatment of horses, cattle or other beasts, in the public highways; to regulate or suppress all billiard-tables, and to regulate all theatres kept for profit; stills kept for the purposes of distilling spirituous liquors for sale; auctioneers; butchers, cart-men and cartage, hawkers and pedlars; all persons exhibiting for gain or profit any puppet-show, wire-dance, circus-riding, or any other idle acts or feats, which common show-men, mountebanks, circus-riders or jugglers, usually practise or perform, and to limit the number, and to provide for the purpose of licensing of the same; to regulate and to prevent the firing off guns, pistols, and other fire-arms, and to prevent the firing off squibs and crackers; to regulate and prevent the erection of slaughter-houses and tanneries; to abate and cause to be removed, any nuisances within the limits of the said Town; to regulate

any taverns, ale-houses, victualling-houses, and all houses where fruit, oysters, clams, victuals, or spirituous liquors, or any other manufactured beverage, may be sold, to be eaten or drunk therein, and all other places for the reception and entertainment of the public, and to limit the number of them, and to provide for the proper licensing of the same; to regulate the place and manner of selling and weighing hay, and the selling pickled and other fish; to restrain and regulate the purchase of country produce, butcher's meat, and fish, by persons called runners or hucksters; to regulate the weighing or measuring of coal, cord-wood, and other fuel, salt and lime, exposed for sale in any part of the said Town; to regulate the assize and price of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto; to regulate the vending of meat, vegetables and fruit; to regulate the present market; to regulate and enforce the erection of party walls; to provide for the permanent improvement of the said Town, in all matters whatsoever, as well ornamental as useful; to enforce the sweeping and cleaning of chimneys, and to regulate the dimension of chimneys hereafter to be built, so as to admit chimney sweeps to sweep and clean the same; and to regulate one or more fire companies; to regulate and require the safe constructing of deposits for ashes, and to regulate the manner of depositing and keeping ashes, at the time they are taken from fire-places; to regulate, remove, or prevent the construction or erection of any fire-place, hearth, chimney, stove, stove-pipe, oven, boiler, kettle, or apparatus used in any house, building, manufactory or business which may be dangerous in causing or promoting fires; to regulate the keeping and transporting of gunpowder, or other combustible or dangerous materials, and the use of lights and candles in livery or other stables; to regulate or prevent the carrying on of manufactories dangerous in causing or promoting fire; to regulate the conduct of the inhabitants at fires; to provide for the keeping of fire-buckets, ladders and fire-hooks, and the making them a part of the real property to which they are attached; to erect, preserve and regulate, public cisterns, and other conveniences for the stopping or preventing fires; to provide for the preservation of property exposed at fires, and to prevent goods and other effects from being purloined thereat; to adopt and establish all such other regulations for the prevention and suppression of fires, and the pulling down of adjacent houses, for such purposes as they may deem necessary or expedient; to provide for the security of the public property of the said Town; to establish and regulate a town watch, and prescribe the powers of watchmen; to license, and appoint by warrant under the common seal of the said Town, or otherwise, such and so many inferior officers, other than those already mentioned in this Act, as shall from time to time be found necessary or convenient to enforce and execute such by-laws and regulations as may hereafter be made by

the said Corporation or Common Council, and to displace all or any of them as often as the said Common Council of the said Town shall think fit; to establish and regulate one or more Pounds; to direct the returning and keeping the bills of mortality, and to impose penalties on Physicians, Sextons and others, for default in the premises; to regulate the Police of the Town; to preserve the Wells, Pumps and Cisterns, and to provide for the supply of good and wholesome Water to the said Town, and to prevent the waste of water; to regulate the burial of the dead; to regulate the Bonds, Recognizances or other Securities, to be given by all Municipal Officers for the faithful discharge of their duties, and the amount for which the same shall be taken; to inflict reasonable penalties and fines for the refusing to serve in any Municipal Office when duly elected or appointed thereto, and for the infringement of any and every law of the said Town; to regulate the time and place of holding elections for all Municipal Officers, and to make provision for a Register of Electors or voters for Aldermen or Common Council-men, and other elective Officers of the said Town; to impose and provide for the raising, levying, and collecting annually, by a tax on the real and personal property in the said Town, in addition to the rates and assessments payable to the general funds of the Midland District, a sum of money, the better to enable them to carry fully into effect the powers hereby vested in them; *Provided*, that such additional tax shall never exceed, in one year, six pence in the pound, upon the assessed value of property lying and being within the limits of the Town, according to the value, as hereinafter provided; to require the road-labour of the said Town, required or to be required under the general road laws of the Province, to be commuted for money, and such money paid into the hands of said Town, to be at the disposal of the said Town, for the purpose of improving the public highways of the said Town; and generally, to make all such laws as may be necessary and proper for carrying into execution the powers hereby vested, or hereafter to be vested in the said Corporation, or in any department or office thereof, for the peace, welfare, safety and good government of the said Town, as they may from time to time deem expedient, such laws not being repugnant to this Act, or the general laws of this Province; *Provided always*, that no person shall be subject to be fined more than five pounds, or to be imprisoned more than thirty days, for the breach of any by-law or regulation of the said Town: *And provided also*, that no person shall be compelled to pay a greater fine than ten pounds, for refusing to serve in any municipal office, when duly elected or appointed thereto.

XLV. *And whereas* it may be expedient, for the convenience of the inhabitants of the said Town, to protract the streets already laid out

Authority of Common Council in respect to the protraction, widening &c. of the streets ;

Land may be entered upon for purpose of surveying ;

Notice of intended application to the Legislature for alteration in the streets

Application to the Legislature not necessary when proprietors consent.

Chattels liable to be assessed ;

Property of the Crown, in possession, excepted.

within the Town of Kingston, or some of them, so as to continue them through the extent of the tract which may hereafter form the Town : *Be it therefore further enacted by the authority aforesaid,* That it shall be competent for the Common Council of the said Town, at any time, to consider and report upon the expediency of protracting any street or streets laid out and opened in the Town of Kingston, and of widening or otherwise altering any street now laid out, or hereafter to be laid out, within the said Town ; and for that purpose, the said Common Council, and any person authorised and empowered by them, may enter upon the grounds of any person, for the purpose of surveying and examining the same, with a view to the laying out, altering and protracting, any street, either in a straight line or otherwise ; and if the Common Council shall determine upon recommending the protraction or alteration of any street, or the laying out of any new street, they shall specify in some Act or Resolution, the precise line of the street which they desire to have made, with its proposed width, and the points of termination and departure ; which Act or Resolution shall be entered or recorded in the books of the said Common Council, and a copy thereof shall be published in the several newspapers published in the said Town, with a notification that the Common Council intend to apply in the ensuing Session of the Legislature of this Province, for an Act to authorise such improvement, upon the terms and conditions which to the Legislature shall seem just ; and that if the Legislature shall, in either of the two next succeeding Sessions, after the publication of such notice, pass an Act, authorising the laying out and protracting and altering such street, as desired by the Common Council, no claim to compensation shall be allowed, in respect of any building or erection that shall be put up in the line of such proposed street, between the time of the publishing of such report or resolution as aforesaid, and the passing of any Act of the Legislature, authorising such alteration or improvement : *Provided always,* that such notification or application to the Legislature, shall not be necessary, when the proprietors of the land assent in writing to the proposed alterations.

**XLVI.** *And be it further enacted by the authority aforesaid,* That the rate or rates aforesaid shall also be raised, levied or assessed, upon the owners or possessors of the following chattel property, that is to say : stone horses, kept for the purpose of covering mares ; other horses of the age of three years and upwards ; horned cattle, phaetons, carriages, gigs, waggons, sleighs, and other carriages kept for pleasure only, according to the yearly value thereof, ascertained as hereinafter mentioned : *Provided always,* that nothing in this Act contained shall extend, or be construed to extend, to any house, lands, property, goods, effects, matters or things, herein mentioned or enumerated, which shall belong to, or be in the actual

possession or occupation of Her Majesty, Her Heirs or Successors, unless the same shall be actually leased to individuals, nor to any churches, chapels, public places of worship, or burying grounds.

**XLVII.** *And be it further enacted by the authority aforesaid, That* Principle upon which property is to be rated. except as respects vacant grounds, or other property hereinafter specially mentioned and provided for, the annual value of all such houses, shops, warehouses, buildings, gardens, grounds, lands, tenements, and parts and portions thereof, being separate tenements as aforesaid, so to be rated and assessed as aforesaid, shall be rated according to the real rack rent or full yearly value, which said rent or yearly value shall be ascertained by the said Assessors, once in each year.

**XLVIII.** *And be it further enacted by the authority aforesaid, That* Ground to the extent of an acre to be assessed with the house upon it, any excess to be valued as a separate tenement. every lot or parcel of ground whereon any house or other building to be valued as aforesaid is situate, and being held therewith as the same tenement, when such lot of ground is not above an acre in extent, and to the amount of an acre thereof, shall be assessed and valued with the house or building thereon; and the overplus (if any) above an acre, shall be valued as a separate tenement and vacant ground, as hereinafter mentioned.

**XLIX.** *And be it further enacted by the authority aforesaid, That the* Principle of assessing lands, &c. not in connection with houses or buildings: possessors or owners of all cultivated, vacant or unoccupied ground, farms, gardens and other lands, not valued with any house or buildings as above-mentioned, situate or partly situate within the said Town; and also the said horses, cattle and carriages hereinbefore mentioned, shall not be rated in respect thereof as hereinbefore mentioned, but the same shall be valued according to the certain fixed rates following, that is to say—Every lot or piece of ground being a separate tenement, under half an acre in extent, shall be valued at five pounds of yearly value; every lot or piece of ground being a separate tenement, above half an acre in extent, and not containing an acre, at ten pounds of yearly value; every lot or piece of ground being a separate tenement, containing an acre in extent, and not containing two acres, at twenty pounds yearly value; and every lot or piece of ground being a separate tenement, containing more than two acres, at twenty pounds yearly value for the first acre, ten pounds yearly value for the second acre, five pounds yearly value for the third acre, and one pound ten shillings yearly value for every subsequent acre; every stone horse kept for the purpose of covering mares for hire or gain, at forty pounds yearly value; every other horse, mare or gelding, above the age of three years, at three pounds yearly value; milch cows, and other horned cattle, above the age of two years, at one pound of yearly value; every close carriage with four wheels, kept for pleasure



only, at twenty-five pounds of yearly value; every phæton, or other open carriage with four wheels, kept for pleasure only, at twelve pounds ten shillings of yearly value; and every waggon, or other carriage or gig, kept for pleasure only, at five pounds of yearly value; every two-horse sleigh, kept for pleasure only, at twelve pounds ten shillings yearly value; and every one-horse sleigh, kept for pleasure only, at ten pounds of yearly value.

Assessor to be sworn.

L. *And be it further enacted by the authority aforesaid,* That every Assessor of the Town, before entering on the duty of such Assessor, shall be first sworn by the Mayor of the Town faithfully and impartially to perform and fulfil the duties of Assessor to the best of his knowledge and ability; which said oath the Mayor of the said Town is hereby authorised to administer.

Duties of Assessor;

LI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Assessor of the said Town to make such valuation as aforesaid as soon as conveniently may be on the requisition of the Mayor, in pursuance of any resolution of the Common Council, authorising such valuation as aforesaid; and also to leave for every person so rated, whether he shall reside within the Ward in which such property is situate, or elsewhere in the said Town, at the residence of such person, a notice of the rent or yearly value of the property in respect whereof he shall be so rated; and immediately after such assessment or yearly value shall be completed, the Assessor or Assessors respectively shall deposite with the Clerk of the Common Council of the said Town, distinct rent or assessment rolls, books or returns, of the said yearly rents or value which shall be rated as aforesaid; and in case any person shall think himself over-charged in such rent or assessment roll, book or return, it shall and may be lawful for such person, within six days next after the said notice shall have been given or left at his residence as aforesaid, to give notice, in writing, to the Clerk of the Common Council of the said Town, of the over-charge complained of; and the same shall be tried by a Court of five Members of the Common Council, to be appointed by the said Common Council for the purpose of hearing and determining such complaints, at such times and meetings of the said Court as the Members composing the same shall direct and appoint, reasonable notice of such time and meeting to be given to the complaining party, and to the Assessor who shall have made such rate; and the Court, after hearing the complaining party and his witnesses, upon oath (or affirmation, as the case may be,) shall, by a majority of two voices or votes, finally decide and determine upon such complaint, and affirm or amend the return of the Assessor accordingly: *Provided always,* that if the said complaining party shall neglect to appear at such meeting

Notice to persons whose property shall be assessed;

Power of appeal against overcharge;

Court for the trial of such appeals;

Notice to Appellant and Assessor;

If Appellant fail to appear, Court may give decision;

of the said Court, he having had reasonable notice thereof as aforesaid, the said Court shall proceed to make their final decision without hearing such party; and in case it shall appear to any two or more Members of the Common Council aforesaid, that the rent or yearly value has been in any case given in or returned by the Assessor too low, they shall cause the Clerk aforesaid to give to the person so valued as aforesaid, and to the person who shall have made such rate, notice of the time of meeting of the Court aforesaid, at which the said matter shall be heard, and the same shall be finally determined by the said Court, in like manner as aforesaid, after hearing the said parties and witnesses, upon oath or affirmation as aforesaid; or in default of their appearance as aforesaid, that any three or more Members shall be a quorum for the despatch of business, and that the said Court shall have power to adjourn, from time to time, as they shall see fit.

Proceedings where property rated below its apparent value.

LII. *And be it further enacted by the authority aforesaid,* That any Member of the said Court shall have full power and authority to administer such oath or affirmation as aforesaid; and the Mayor, or any one of the Aldermen of the said Town, shall have full power and authority to issue a summons for each witness who shall be required to attend before the said Court; and if any person shall neglect or refuse to obey such summons, upon being tendered a reasonable remuneration for his services, not exceeding two shillings and six-pence per day, he shall be liable to such fine, not exceeding five pounds, as the said Court, on proof upon oath (or affirmation, as the case may be,) of the due service of such summons, and of such neglect or refusal, shall impose; and in default of payment of such fine, it shall and may be lawful for the said Court to commit such person to the Gaol of the Midland District, until such fine shall be paid: *Provided always,* that such imprisonment shall not exceed in any case thirty days; and if any person shall knowingly swear or affirm falsely, in any of the cases referred to in this or the next preceding section of this Act, he shall be deemed guilty of wilful and corrupt perjury, and shall be punished accordingly, on conviction, before any Court having jurisdiction thereof.

Court may administer oath, &c.

Mayor may summon witnesses;

And inflict fines for non-attendance;

Imprisonment (not exceeding 30 days) if fine not paid;

False swearing perjury.

LIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Mayor, Aldermen and Commonalty, of the said Town, at some convenient time after the return of the rent or assessment rolls aforesaid, to pass a yearly Act declaring the amount in the pound on such rent or valuation which shall be raised and levied for the year in which such Act shall be passed: *Provided,* that the same doth not exceed six-pence in the pound.

Annual Act may be passed declaring the amount in the pound to be levied;

Not to exceed six pence in the pound.

Authority of the Court to remit assessments in certain cases.

**LIV.** *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said Court, so constituted in the thirteenth section of this Act mentioned, to hear on memorial or petition, the case or cases of such person or persons as during any one year for which rates aforesaid shall be respectively levied, shall have been assessed for any house or building, or any part thereof which during such year shall have continued vacant for more than three calendar months of such year; and also the case or cases of such person or persons not assessed in respect of any property in the said Town, who, from sickness or extreme poverty, shall be unable to pay any rate by this Act imposed; and on hearing such case or cases, it shall and may be lawful for the said Court to compound for or remit the whole or any part of such rate or rates.

Proprietors having rented their premises liable for rates as well as the tenants.

**LV.** *And be it further enacted by the authority aforesaid,* That all proprietors, lessees and others, who shall let for rent premises within the said Town for a space less than one year, shall themselves, as well as the occupiers of such premises, be liable and responsible for the rate and assessments aforesaid; and such assessment shall and may be recovered from the said proprietors, lessees or others, or from the said occupiers, as the Collector or Collectors of the said Town shall judge convenient.

Assessment upon certain persons not possessing ratable property;

**LVI.** *And be it further enacted by the authority aforesaid,* That each male inhabitant of the said Town, of the age of twenty-one years and upwards, and not above the age of sixty years, not otherwise rated under the authority of this Act, and who by the laws now in force would be liable to perform Statute Labour, shall be rated and assessed in the sum of ten shillings yearly, which said sum shall be paid to the general uses of the said Town, in like manner as the other rates, levies and assessments, under the authority of this Act; and it shall be the duty of the Assessor of the said Town to return, with the rent or assessment rolls to be made or returned under the authority of this Act, a true and correct list of persons within the Town; to give notice to the persons respectively who shall be so liable and placed upon the said list; it shall be the duty of the Collector of the Town to collect and receive such sum and sums of money, and pay over the same in like manner as other monies to be levied and raised under the authority of this Act.

Duty of Assessor and Collector in such cases.

Recovery of rates;

**LVII.** *And be it further enacted by the authority aforesaid,* That if any person or persons rated or assessed, as in manner herein directed, shall refuse or neglect to pay the rates or assessments charged upon him, her or them, for the space of fourteen days next after such rates shall be due and demanded by any one of the Collectors of the Town, it shall and may be lawful for the said Collector to apply to the Mayor, or one of the Alder-

men of the said Town for a warrant to the High Bailiff, or any Constable of the said Town, to enter into the house or houses, other dwellings or premises of such person or persons, and seize and take possession of his, her or their goods and effects, (whether in the Ward in which the assessed property is situate, or elsewhere in the said Town,) which warrant the said Mayor or Alderman is hereby authorised to grant, upon a certificate signed and sworn to by such Collector, of a demand of such rate having been made, and of such person or persons being in arrear to the amount stated in such certificate; and if such rate or assessment shall not be paid within five days next after seizure, the said Collector is hereby authorised to sell by public auction, at such place as may be proper, such part of the said goods and effects as shall be sufficient to pay the said rates and assessments, with the costs and charges attending such seizure and sale, returning the overplus (if any there be) to the owner.

By seizure, and sale.

LVIII. *And be it further enacted by the authority aforesaid,* That from and after the passing of this Act, every landlord, proprietor or agent, who shall wilfully grant a certificate or receipt which contains a less sum than the rent usually paid or payable for the premises therein-mentioned or referred to, and every tenant who shall present to the Assessor aforesaid, or otherwise utter or publish such a certificate or receipt, in order to procure a lessening or abatement of such rate or assessment, shall be liable to a penalty not exceeding five pounds, to be recovered and disposed of in like manner as other penalties are recovered and disposed in the said Town, for breach of any of the by-laws and ordinances thereof.

Penalty for giving or using false certificate of rent.

LIX. *And be it further enacted by the authority aforesaid,* That the yearly rate so to be rated and assessed as aforesaid, shall be in the proportion of a certain sum in every pound of yearly rent or value so ascertained as aforesaid, within the said Town: *Provided always, and it is hereby further enacted by the authority aforesaid,* that except as hereinafter provided, the rate or rates so to be levied and assessed as aforesaid, shall not exceed in any one year, the amount or sum of six pence in the pound, of such yearly rent or value.

Yearly rate to be a certain sum in the pound of rent or value;

Not to exceed annually six pence in the pound thereon.

LX. *And be it further enacted by the authority aforesaid,* That in all cases where the person who shall be rated in respect of any vacant ground, or other real property within the said Town, shall not reside within the said Town, and the rates and assessments payable in respect to such vacant ground or other property, shall remain unpaid, the rates or assessments payable in respect of such vacant ground or other property, shall remain charged against the same, and shall be paid by any future occupier of the same, or by any proprietor thereof, who shall reside within

When owner rated for unoccupied real property does not reside within the town, the arrears, with interest, to be paid by future occupier.

the said Town, at any time after the said rates and assessments shall be due and in arrear, together with interest on the sum or sums so in arrear from the time at which they shall respectively become payable, after the rate of six per centum per annum, and the said sum or sums so in arrear, and the interest thereon, shall be recovered in like manner as hereinbefore provided for the recovery of the rates and assessments.

Wages of Member representing the town in Parliament.

**XLI.** *And be it further enacted by the authority aforesaid,* That the wages of any Member or Members of the House of Assembly, representing the said Town in Parliament, shall be paid and payable to such Member or Members by the Treasurer of the said Town, out of the monies in his hands for the uses of the said Town, on warrant from the Mayor, and without any particular rate or assessment being raised or rated in respect thereof.

Qualification of Alderman and Common Council-man

**LXII.** *And be it further enacted by the authority aforesaid,* That at every election of Aldermen and Common Council-men, or any of them, within the said Town, no person shall be eligible to be elected an Alderman of the said Town, unless he shall have been resident within the said Town for seven years next before the election, and being so resident at the time of such election, shall be possessed, to his own use and benefit, of real property within the said Town, either in freehold, or for a term of years was a tenant from year to year, which shall be assessed under this Act at sixty pounds, or in the receipt of sixty pounds or upwards of yearly rent or profit accruing from or out of real property within the said Town; and that no person shall be eligible to be elected as Common Council-man of the said Town, unless he shall have been resident within the said Town for the space of five years next before the election, and being so resident at the time of such election, shall be possessed, to his own use and benefit, either in freehold or for a term of years, or as a tenant from year to year, of real property within the said Town, which shall be rated under the Act at forty pounds yearly rent or value, or in the receipt of forty pounds or upwards of yearly rents or profits, accruing from or out of real property within the said Town; and that every Candidate at such election shall, if thereunto required by any Elector for the Ward where such person is a Candidate, make and subscribe an oath or affirmation, of his qualification, and of the particulars of the property in respect whereof he is so qualified; which oath or affirmation the Returning Officer is hereby authorised and required to administer.

Qualification of Voters for Aldermen or Common Council-men.

**XLIII.** *And be it further enacted by the authority aforesaid,* That the Aldermen and Common Council-men of the said Town shall be elected respectively by the majority of the votes of such persons, being male

inhabitant householders of the said Town, as shall be possessed, at the time of being registered as Electors, as hereinafter provided, and shall have been possessed, three months prior thereto, either in freehold or as tenants for a term of years, or from year to year, of a town-lot or dwelling-house, within the Ward for which the election shall be held, shall be rated at the yearly value of ten pounds, and shall have had their names duly registered as Electors, in manner hereinafter mentioned, and shall have actually paid their rents and taxes due at the time of his being registered as a voter: *Provided always*, that a portion of a house in which any inhabitant shall reside as a householder, and not as a boarder or lodger, and having a distinct communication with the street, by an out-door, shall be considered a dwelling-house within the meaning of this clause: *And provided also*, that no person shall vote at any such election, who has not been a resident inhabitant within the said Town for a period of twelve calendar months next before the election.

LXIV. *And whereas*, it is necessary to provide a registry of electors or voters for Aldermen, Common Council-men, or other elective Officers of the said Town: *Be it therefore further enacted by the authority aforesaid*, That the Clerk of the Common Council of the said Town shall, on or before the first Monday of December in each and every year, make out an alphabetical list of every person residing within each Ward, entitled to vote under the provisions of this Act, and shall put up a correct copy of such list in the Town Hall on the same day, and continually keep the same there until the next ensuing election.

LXV. *And be it further enacted by the authority aforesaid*, That a Court of three Members of the Common Council, to be appointed by the Common Council, shall sit in the Town Hall, on days whereof due notice shall be given, and not less than once in every week after such lists shall have been made out as aforesaid, and before the then next ensuing election, between the hours of ten o'clock in the forenoon, and four o'clock in the afternoon, for hearing and deciding upon all objections which may be made by any elector of the Town, to the insertion or omission of names in the said lists, and for the purpose of expunging, retaining or inserting, from or in the said lists, according to the best of their judgment; and such Court may adjourn from time to time as they may deem expedient; and such Court are not to expunge any name to which no valid objection shall be made and established, either by the admission of the party himself, or by the oath of some person or persons deposing to such an objection; and the said Court are hereby required to add to and insert in such list the name or names of any person or persons not therein inserted, and

Registration of Voters.

Court of three Members of the Common Council to examine objections to registration of votes;

Court may insert names not already inserted in lists of voters;

whose right to vote shall be satisfactorily established: *Provided always*, that no person's name shall be expunged without a notice, to be signed by the Clerk of the Common Council, shall be given to him or left at his residence, that his right to vote is disputed, at least four days before such expunging; and that no person's name shall be inserted in such list or lists, unless he shall have given four days notice of his intention to apply to have his name inserted therein, to the Clerk of the Common Council, who shall forthwith communicate the same to the said Court.

Four days notice previous to the expunging or insertion of a Voter's name.

Court may administer oaths;

Lists to be signed by President of the Court.

LXVI. *And be it further enacted by the authority aforesaid*, That the said Court of three Members shall have power to administer an oath to all persons making an objection to the insertion or omission of any name in such list as aforesaid, and to all persons objected against or requiring their names to be inserted, and to all witnesses tendered on either side; and the Member of the Court presiding shall sign his name to the lists after the validity of the claims and objections shall have been decided on, and the names inserted or expunged accordingly; and that such lists, so signed, shall be held to contain the names of all the Electors entitled to vote at the election next ensuing the making and signing such lists.

Lists to be filed with Clerk of the Council, and certified copies sent to Returning Officers;

Date of Voter;

LXVII. *And be it further enacted by the authority aforesaid*, That the list for each Ward, when so settled and signed, shall be filed in the office of the Clerk of the Common Council, and a certified copy thereof shall be by him transmitted to the Returning Officer for the several Wards in the Town, not less than five days before any such election; and that every person whose name shall appear in such list, shall be entitled to vote at the elections for such Ward, without any further inquiry as to his qualification, and without taking any oath or affirmation, other than that he is the person named in such list, and has not before voted at such election; which oath or affirmation the Returning Officer is hereby required and authorised to administer.

*Form of Collector's Certificate, for the purpose of procuring a Distress Warrant.*

Collector's certificate;

I, \_\_\_\_\_ one of the Collectors for the Town of Kingston, do hereby certify, that the sum of \_\_\_\_\_, rated against \_\_\_\_\_, an individual of the said Town, in respect of ratable property in the Ward \_\_\_\_\_, attached to the said Ward, or not assessed in respect of ratable property in the said Town, is now in arrear and unpaid; and further, that I did, on the \_\_\_\_\_ day of \_\_\_\_\_ duly demand the said sum of \_\_\_\_\_ from the said \_\_\_\_\_.

\_\_\_\_\_ Collector.

*Form of Attestation.*

I, ——— one of the Collectors of the Town of Kingston, do swear, Attestation.  
that the above Certificate is true in all its particulars.

*Form of Warrant of Distress thereon.*

To ———, High Bailiff, or one of the Constables of the Town of Warrant of distress.  
Kingston, (as the case may be.) You are hereby authorised and required  
to distrain the goods, chattels and effects, of ———, which you shall  
find upon the premises of the said ———, in the Town, for the sum of  
———; rated against him or her, and now in arrear and unpaid; and  
in default of payment of such rate or rates, and the lawful costs and  
expenses of the said Distress, to sell and dispose of the said Distress or  
Distresses, according to law, for the recovery of the said rate or rates,  
together with the said costs and expenses, according to law; and for so  
doing, this shall be your sufficient warrant. Given under my hand and  
seal, at the Town of Kingston aforesaid, this ——— day of ———, one  
thousand eight hundred and ———.

## CHAP. XXVIII.

*AN ACT to amend the Charter of the Welland Canal Company*

[Passed 6th March, 1833.]

**WHEREAS** by the seventh Clause of an Act passed in the fourth year Preamble.  
of George the Fourth, entitled, “An Act to incorporate certain persons  
therein-mentioned, under the style and title of the Welland Canal Com-  
pany,” it is provided, that all claims for damages made by individuals for  
land or materials taken for the purposes of the Welland Canal Company,  
shall in case of disagreement with the said Company as to the value  
thereof, be settled and determined by arbitration; *And whereas* it is found  
that the said Welland Canal Company is liable to numerous vexatious  
law suits, for damages alleged to be sustained by individuals, in conse-  
quence of the Officers in charge of the Welland Canal finding it necessary  
for the safety of that work to discharge the waste water in times of freshets,  
or for the purpose of making repairs absolutely necessary, upon the premises  
of such individuals: *Be it therefore enacted* by the Queen’s most Excellent  
Majesty, by and with the advice and consent of the Legislative Council  
and Assembly of the Province of Upper Canada, constituted and assembled  
by virtue of and under the authority of an Act passed in the Parlia-



ment of Great Britain, entitled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,” and by the authority of the same, That from and after the passing of this Act all claims now pending, or which may hereafter be made, for damages caused as aforesaid, or in any other way whatever, in the maintaining and keeping in repair the said Canal, shall be settled and determined by arbitration, in the same manner as is provided by the before recited and subsequent Acts relating to the Welland Canal, as regards other damages.

All claims now pending or hereafter to be made against the Company, to be settled by arbitration.

## CHAP. XXIX.

*AN ACT to incorporate sundry persons under the style and title of the Grantham Navigation Company, and for other purposes therein mentioned.*

[Passed 6th March, 1838.]

**WHEREAS** Horatio Nelson Perry, Eleazer W. Stephenson, John Gilleland, George Adams, Walter Ditterick, John McCarthy, John Stuart, James Taylor, James R. Benson, William C. Chace, John Gibson, James B. Glendenning, Charles Rolls, Alexander Boles, Frederick L. Converse, and others, have by petition prayed to be incorporated, for the purposes of this Act, and it is expedient that the prayer of the said petition should be granted: *Be it therefore enacted* by the Queen’s most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and Assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,” and by the authority of the same, That the said Horatio Nelson Perry, Eleazer W. Stephenson, John Gilleland, George Adams, Walter Ditterick, John McCarthy, John Stuart, James Taylor, James R. Benson, William C. Chace, John Gibson, James B. Glendenning, Charles Rolls, Alexander Boles, Frederick L. Converse, together with all such persons as shall become Stockholders of the Company hereinafter mentioned, shall be and they are hereby ordained, constituted and declared, to be a body corporate and politic, in fact and by the name of the Grantham Navigation Company, and by that name they

Preamble.

Persons therein named incorporated by the name and style of the Grantham Navigation Company.

and their Successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered unto, in all Courts and places whatsoever, in all matter of actions.

II. *And be it further enacted by the authority aforesaid,* That the Directors of the Grantham Navigation Company shall have full power and authority to take, appropriate, have and hold, to and for the use of them and their Successors, the line and boundary of a Canal or Slack Water Navigation, with such necessary erections as may be required by the said Company for the purposes thereof, from the Welland Canal up to the valley of the Twelve Mile Creek, to Perry's mill-dam, now erected over the Twelve Mile Creek in the township of Grantham.

Authority given to Company to appropriate line and boundary of Canal &c.

III. *And be it further enacted by the authority aforesaid,* That after any lands or grounds shall be set out and ascertained to be necessary for making and completing said Canal, and other purposes and conveniences hereinbefore mentioned, it shall and may be lawful for all Bodies Politic, Communities, Corporations, aggregate or sole Guardians, and all other Trustees whomsoever, not only for and in behalf of themselves, their Heirs and Successors, but also for and in behalf of those whom they represent, whether infants, lunatics, idiots, femmes coverts, or other persons, who are or shall be possessed of, or interested in any lands or grounds which shall be set out and ascertained as aforesaid, to contract for, sell and convey unto the said Company, all or any part of such lands and grounds which shall from time to time be set out and ascertained as aforesaid; and that all such contracts, agreements and sales, shall be valid and effectual in Law to all intents and purposes whatsoever, any Law, Statute or usage to the contrary thereof in anywise notwithstanding, and the amount thereof shall be established in the manner hereinafter mentioned, for the determination of the value of lands or other tenements to be purchased by the said Company, and of the amount of damages committed thereby.

Authority given to all persons interested in lands &c, necessary for Canal, to convey same to Company.

IV. *And be it further enacted by the authority aforesaid,* That in case of any disagreement between the said Directors and the owner or owners, occupier or occupiers aforesaid, it shall and may be lawful from time to time, as often as the said Directors shall think fit, for each owner or occupier so disagreeing with the said Directors, either upon the value of the lands and tenements proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one indifferent person, and for the Directors to nominate and appoint another

Parties disagreeing as to value of lands, to refer same to arbitration.

indifferent person, who shall be Arbitrators to award and determine the respective sums of money which the said Company shall pay to the person entitled to receive the same; and in case the two Arbitrators so named shall disagree on the amount to be paid to the individuals so claiming, the said Arbitrators shall name and appoint one other person as Umpire, whose decision shall be final on the matter referred to him; and the parties are hereby required to attend at some convenient place in the vicinity of the route of the said navigation, to be chosen by the Directors, within eight days after notice given by the said Directors for that purpose, then and there to arbitrate, determine and adjudge, such matters and things as shall be submitted for their consideration by the parties interested; and that each Arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace in and for the said District, any of whom may be required to attend the said Meeting for that purpose, well and truly to assess the damages between the parties, according to the best of his judgment.

Company to fix rates and dues to be taken, &c. and to give notice of same.

V. *And be it further enacted by the authority aforesaid,* That the said Company shall, at their first general meeting held after any part of the Canal shall be finished, ascertain and fix the rates and dues to be taken by virtue of this Act; and that it shall and may be lawful for the Directors of the said Company to alter the said rates at any subsequent meeting, after giving three months notice of the same; and that a schedule of rates shall be affixed on the different public places on the route of the said Navigation.

Shares in Company; £12 10s. each.

Capital Stock not to exceed £50,000.

VI. *And be it further enacted by the authority aforesaid,* That each Share in the said Company shall be twelve Pounds ten Shillings, Currency; and the number of Shares shall not exceed four thousand, constituting a Capital not exceeding fifty thousand Pounds; and that books of Subscription shall be opened in the Village of Saint Catharines, within one month after the passing of this Act, by such person or persons, and under such regulations as the majority of the said Petitioners, at a meeting to be called by any one of them for that purpose, in the Township of Grantham, shall direct.

Number of votes proportioned, &c.

VII. *And be it further enacted by the authority aforesaid,* That each Stockholder shall be entitled to a number of votes proportioned to the number of shares which he or she shall have held in his or her own name, at least three months prior to the time of voting, according to the following ratios, that is say: at the rate of one vote for each share not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares; and one vote for every five shares above ten.

VIII. *And be it further enacted by the authority aforesaid,* That the stock, property, affairs and concerns, of the said Company, shall be managed by three Directors, one of whom shall be President, who shall hold their offices for one year, and shall be Stockholders to the amount of at least ten shares, and be elected on the first Monday in May in each year, public notice of which election shall be given in at least one Newspaper published in the District of Niagara, not less than thirty days previous to the election; and all elections of Directors shall be by ballot, and the three persons who shall have the greatest number of votes at any such election shall be Directors, and if it shall happen at any election that two or more persons have an equal number of votes, in such manner that a greater number of persons than three shall by plurality of votes appear to be chosen as Directors, then the Stockholders hereinbefore authorised to hold such election shall proceed to ballot a second time, and by plurality of votes determine which of the said persons so having an equal number of votes shall be the Director or Directors so as to complete the whole number of three; and in case any vacancy or vacancies shall at any time happen among the Directors by death, resignation, or removal from the Province, the same shall be filled for the remainder of the year by such person or persons as the remaining Director or Directors may appoint.

Management of affairs of Company to be intrusted to Directors;

Qualification;

Mode of election, &c.

IX. *And be it further enacted by the authority aforesaid,* That the Directors for the time being, or a major part of them, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper, touching the management and disposition of the Stock, Property, Estate and effects of the said Corporation, and touching the duty and conduct of the Officers, Clerks and Servants employed, and all such other matters as appertain to the business of the said Company, and shall also have power to appoint as many Officers, Clerks and Servants, for carrying on the said business, and with such salaries and allowances as to them shall seem meet: *Provided,* that such rules and regulations be not repugnant to the Laws of this Province.

Rules, &c. to be established by Directors.

X. *And be it further enacted by the authority aforesaid,* That all penalties and forfeitures for offences against this Act, or against any Rule, Order or By-Law of the said Company, to be made in pursuance thereof, for the levying and recovering whereof no particular mode is herein before mentioned, shall, upon proof of the offences respectively before any two of the Justices of the Peace for the District of Niagara, either by confession of the party or parties, or by the oath of one credible witness, (which oath such Justices are hereby required to administer without fee or reward) be levied by distress and sale of the goods and chattels of the parties offending, by warrant under the hands and seals of said Justices, (which

Mode of imposing and levying penalties, &c.

warrant such Justices are hereby required to grant) and the overplus, after such penalties and forfeitures and the charges of such distress and sale are deducted, shall be returned upon demand to the owner or owners of such goods and chattels; and in case such sufficient distress cannot be found, or such penalties or forfeitures shall not be forthwith paid, it shall be lawful for such Justices, by warrant under their hands and seals, to cause such offender or offenders to be committed to the Common Gaol of the District of Niagara, there to remain without bail or mainprize for such time as the said Justices may direct, not exceeding twenty days, unless such penalties and forfeitures and all reasonable charges attending the same shall be sooner paid and satisfied; all which penalties and forfeitures when levied and satisfied as aforesaid, shall be paid to the said Company, to be by them applied to the purposes of the said navigation.

Appropriation of penalties.

Yearly dividends to be made.

*XI. And be it further enacted by the authority aforesaid,* That it shall be the duty of the Directors to make yearly dividends of so much of the profits of the said Corporation as to them, or a majority of them, shall appear advisable.

Instalments to be called in, &c.

*XII. And be it further enacted by the authority aforesaid,* That the Directors to be hereafter appointed by virtue of this Act, as soon as they may deem expedient, may from time to time call in instalments upon the Capital Stock: *Provided* no instalment shall be called for or become payable in less than thirty days, after public notice shall have been given in some public Newspaper published in the District of Niagara: *Provided always,* that if any Stockholder or Stockholders shall neglect or refuse to pay to the said Directors the amount due upon any share or shares held by him, her or them; at any time when required by Law so to do, such Stockholder or Stockholders shall forfeit such share or shares, with the amount previously paid thereon; and such share or shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and divided in like manner as other monies of the Corporation.

Forfeiture of Shares provided for.

Company not dissolved by reason of non-election of Directors, &c.

*XIII. And be it further enacted by the authority aforesaid,* That in case it should at any time happen that an election of Directors should not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election of Directors, in such manner as shall have been regulated by the Laws and Ordinances of the said Corporation.

XIV. *And be it further enacted by the authority aforesaid, That after* Power given to Her Majesty to assume Canal after 30 years, under certain restrictions. a period of thirty years after the making and completing the said Canal, it shall and may be lawful for Her Majesty, Her Heirs and Successors, to assume the possession and property of the same, and of all and every the works and dependencies thereto belonging, or in anywise appertaining, upon paying to the said Company, their heirs, executors, administrators or assigns, the full amount of their respective shares, or of the sums furnished and advanced by each Subscriber towards the making and completing the said Canal, together with such further sum as will amount to twenty-five per centum upon the monies so advanced and paid, as a full indemnification to such Company, and the said Canal shall from the time of such assumption in manner aforesaid appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thenceforth be substituted in the place or stead of the said Company, their heirs and assigns, for all and every the purposes of this Act, in so far as regards the said Canal.

XV. *And be it further enacted by the authority aforesaid, That every* Surety to be given by Treasurer. Treasurer, before he enters upon the duties of his office, shall give bond, with two or more sureties, in such sum as may be satisfactory to the Directors, with condition for the faithful discharge of his duty.

## CHAP. XXX.

*AN ACT to Incorporate sundry persons, under the name of the Kingston Marine Railway Company.*

[Passed 6th March, 1838.]

**WHEREAS** John Counter, John Strange, John Watkins, Alexander McNab, Henry Gilderslieve, John McIntyre, and others, have by petition Preamble. set forth, that they have at a great expense erected a Marine Railway, at the Town of Kingston, for the purpose of repairing Steam-boats and other vessels, and have made other erections, and are anxious to be incorporated for the purpose of enabling them to carry on the business more extensively, and that it would be of great advantage to the Town of Kingston, and would afford employment to a great number of persons: *And whereas* it is expedient to incorporate the said petitioners for the purposes hereinafter mentioned: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative

Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That the said John Counter, John Strange, John Watkins, Alexander McNab, Henry Gilderslieve, John McIntyre, together with all such other persons as now are, or as shall become Stockholders in such Joint-stock or Capital as is hereinafter mentioned, shall be and are hereby ordained, authorised, and declared to be, a body Corporate and Politic in fact, and by and under the name and style of the Kingston Marine Railway Company.

Body corporate and politic declared.

II. *And be it further enacted by the authority aforesaid,* That the said Company may be authorised and empowered, at their own costs and charges, to construct a Harbour and Wharf and Wharves, with a Dry-dock or Railway, regulated for refitting and repairing all shipping at Kingston aforesaid; which said wharf or wharves, harbour and dry-dock or railway, shall be accessible to, and fit, safe, and commodious for the reception of such description and burthen of sail or steam vessels as now navigate Lake Ontario; and also to erect and build all such necessary and needful moles, piers, wharves, breakwaters, or other erections or constructions whatsoever, as shall be useful and proper for the purposes aforesaid, and the protection of the harbour, wharf or wharves, docks or railways, and for the accommodation and convenience of vessels entering, lying, loading and unloading, repairing, refitting, or lying-up in the same, and to alter, amend, repair and enlarge the said harbour, wharf or wharves, and docks or railway as aforesaid, as may from time to time be found necessary and expedient.

Directors empowered to contract, &c. with owners of lands, &c. for purchase &c. of lands, &c.

III. *And be it further enacted by the authority aforesaid,* That the Directors of the said Company may be empowered to contract, compound, compromise and agree, with the owners or occupiers of any lands or private easements, rights or privileges, upon which they may determine to dredge, cut, and construct the said harbour, with all necessary and convenient roads, streets, and approaches thereto, to be made and constructed, either by purchase of so much of the said land or private easements and privileges as they shall require for the purposes of the said Company, or for the damages which they shall and may be entitled to receive of the said Company in consequence of the said intended harbour, roads, streets and approaches thereto, being cut, made and constructed, on their respec-

tive lands ; and in case of any disagreement between the said Directors and owners or occupiers aforesaid, it shall and may be lawful from time to time, as often as the said Directors shall think fit, for each owner or occupier so disagreeing with the said Directors, either upon the value of the lands and tenements, or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the said Directors to nominate an equal number of indifferent persons, who together with one other person to be elected by ballot by the persons so named, shall be Arbitrators to award, determine, adjudge and order, the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of the majority of whom shall be final ; and the said Arbitrators shall, and they are hereby required, to attend at some convenient place in the vicinity of the said intended railway, to be appointed by the said Directors, after eight days notice given them for that purpose by the said Directors, then and there to arbitrate, award, adjudge and determine, such matters and things as shall be submitted to their consideration by the parties interested ; and that each Arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace in and for the said District, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties to the best of his judgment : *Provided always*, that any award made under this Act shall be subject to be set aside on application to the Court of King's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case a reference may be again made to arbitration as hereinbefore provided.

In case of disagreement resort to be had to Arbitrators, &c.

Manner of choosing Arbitrators, and conducting Arbitration.

Award subject to be set aside by Court of King's Bench.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the President and Directors of the said Company, from time to time, to regulate, fix and establish, the rates of wharfage, tolls, dues or duties, payable by persons navigating or owning rafts, vessels, boats or other crafts, on Lake Ontario, and which may, from time to time, partake of the benefits and advantages of the said harbour, wharves, docks or railway, or of the store-houses or other protections and erections for the safe keeping, repairing and refitting, of all vessels, boats, crafts and rafts, of any description ; and of goods, wares and merchandize, shipped or unloaded within the limits established by this Act ; and to alter the said tolls, dues, duties and demands aforesaid, as they may deem proper and expedient ; and also for regulating the discharging of ballast, as well in the said harbour as in the river immediately adjacent thereto ; a copy of which tolls, rates and dues, shall be affixed up in not less than three public places adjacent to the said harbour and docks, and railway respectively :

Directors to fix rates of wharfage, &c. ;

And to make rules for protection of Harbour. &c.



Harbour, materials, &c.  
vested in Company.

V. *And be it further enacted by the authority aforesaid,* That the said harbour, moles, piers, wharves and wet dock, and dry dock or railway, and all materials which shall be from time to time got or provided for constructing, building, maintaining or repairing the same, and the said tolls on goods, wares or merchandize, as hereinbefore mentioned, shall be and the same are hereby vested in the said Company and their successors for ever.

Remedy in case of neglect  
or refusal to pay tolls, &c.

VI. *And be it further enacted by the authority aforesaid,* That if any person shall neglect or refuse to pay the tolls or dues to be collected under this Act, it shall and may be lawful for the said Company, or their officer, clerk or servant, duly appointed, to seize or detain the goods, vessels or boats, on which the same shall be due and payable, until such tolls shall be paid; and if the same shall remain unpaid for the space of thirty days next after such seizure, the said Company, or the officer, clerk or servant, as aforesaid, may sell or dispose of the said goods, vessels or boats, or such part thereof as may be necessary to pay the said tolls or dues, by public auction, giving ten days notice thereof, and return the overplus, if any; to the owner thereof.

By what Officers affairs  
of Company to be  
managed, &c.;

Qualification, and mode  
of electing same.

VII. *And be it further enacted by the authority aforesaid,* That the stock, property, affairs and concerns, of the said Company, shall be managed and conducted by five Directors, one of whom shall be chosen President, who shall hold their offices for one year; which said Directors shall be Stockholders to the amount of at least four shares, and be elected on the first Monday in April, in each year, at Kingston, at such time of the day as a majority of the Directors for the time being shall appoint; and public notice thereof shall be given in any newspaper that may be published in the Town of Kingston, at least thirty days previous to the time of holding the said election; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons, or by proxy; and all elections for such Directors shall be by ballot, and the five persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen at any such election that two or more have an equal number of votes, in such a manner that a greater number of persons than five shall, by a plurality of votes appear to be chosen Directors, then the said Stockholders hereinbefore authorized to hold such election, shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Directors, so as to complete the whole number of five; and the said Directors so chosen, so soon as may be after the said election, shall proceed in like manner to elect, by ballot, one of their number to be President; and if any vacancy shall at any time happen

among the Directors, by death, resignation, or removal from the Province, such vacancy shall be filled for the remainder of the year in which it may happen, by a person to be nominated by a majority of the Directors.

VIII. *And be it further enacted by the authority aforesaid,* That each Stockholder shall be entitled to the number of votes proportioned to the number of shares which he shall have held in his own name, at least one month prior to the time of voting, according to the following rates, that is to say—One vote for each share not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares; and one vote for every five shares over ten.

Qualification of Stockholders to vote, &c.

IX. *And be it further enacted by the authority aforesaid,* That on the fourth Monday after the passing of this Act, a meeting of the Stockholders shall be held at Kingston, who, in the same manner as hereinbefore provided, shall proceed to elect five persons to be Directors, who shall continue in such office until the first Monday in April next after their election, and who during such continuance, shall discharge the duties of Directors in the same manner as if they had been elected at the annual election: *Provided always,* that if shares to the amount of one thousand pounds of the capital stock of the said Company shall not be taken, then the said meeting shall not be held until the amount of stock shall have been taken up, and at least thirty days notice thereof be given in any paper published in the Midland District.

First election of Officers, on 4th Monday after passing of Act, provided £1000 of Capital Stock be taken up.

X. *And be it further enacted by the authority aforesaid,* That the whole capital or stock of the said Company, inclusive of any real estate which the Company may have or hold by virtue of this Act, shall not exceed in value thirty thousand pounds, to be held in two thousand four hundred shares, of twelve pounds ten shillings each; and that the shares of the said capital stock may, after the first instalment thereon shall have been paid, be transferred by the respective persons subscribing or holding the same to other persons, and such transfer shall be entered or registered in a book to be kept for that purpose by the Company,

Limitation of Capital to be held by Company.

XI. *And be it further enacted by the authority aforesaid,* That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days notice thereof, in any paper published in the said Town of Kingston, for an instalment of ten per cent upon each share which they or any of them respectively may subscribe; and that the residue of the sum or shares of the Stockholders shall be payable by instalments, in such time and in such proportions as a majority of the Stockholders, at a meet-

Manner of calling in instalments of Stock, &c.

ing to be expressly convened for that purpose shall agree upon, so as no such instalments shall exceed ten per cent, nor become payable in less than thirty days after public notice in the paper, as aforesaid.

Penalty for refusing to pay up Stock when called in, &c.

XII. *And be it further enacted by the authority aforesaid,* That if any Stockholder, as aforesaid, shall neglect or refuse to pay at the time required, any such instalment as shall be lawfully required by the Directors as due upon any shares, such Stockholder so refusing or neglecting shall forfeit such shares as aforesaid, with any amount which shall have previously been paid thereon; and that the said shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid in, shall be accounted for and applied in like manner as other monies of the said Company: *Provided always,* that the purchaser shall pay the said Company the amount of the instalment required, over and above the purchase money of the shares so purchased by him as aforesaid, immediately after the sale, and before he shall be entitled to the certificate of the transfer of such shares so purchased as aforesaid: *Provided always,* that thirty days notice of the sale of such forfeited shares shall be given in any newspaper published in the Town of Kingston, and that the instalments due may be received in redemption of any such forfeited shares at any time before the day appointed for the sale thereof.

Purchasers of forfeited Stock to pay instalment called in, immediately.

Dividends to be made, &c.

XIII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company as to them, or a majority of them, shall seem advisable; and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses; such statements to appear on the Books, and to be open to the perusal of any Stockholder at his reasonable request.

## CHAP. XXXI.

*AN ACT to Incorporate certain persons, under the style and title of the Bond Head Harbour Company.*

[Passed 6th March, 1838.]

Preamble.

WHEREAS the prosperity of the Newcastle District would be materially advanced, and be highly advantageous to the public, should a Harbour be erected in the Township of Clark, in the said District, on Lake Ontario: *And whereas* from a survey made by N. H. Baird, Civil Engineer, of Lots number twenty-seven and twenty-eight, of said Township, the

front of said lots is considered a most desirable situation for the erection of a Harbour: *And whereas* George Manners, and others, have by petition prayed to be Incorporated for said purpose: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, consituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, an "Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That the said George Manners, Benjamin Clark, Hervey P. Andrews, Donald McTavish, Alexander Jack, Henry Munro, Edward Clark, A. Wilmot, John Middleton, George G. Boswell, Daniel Perry, R. H. Catherwood, Asa E. Walbridge, William McIntosh, William Brock, Jael Beman, Richard Lovekin, and Samuel Street Wilmot, together with all such other persons as shall become Stockholders in such joint stock or capital as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared, to be a body corporate and politic, in fact, by and under the name of "The President, Directors and Company, of the Bond Head Harbour Company."

Company incorporated,  
&c.

Name and style of  
Company.

II. *And be it further enacted by the authority aforesaid*, That the said Company are hereby authorised and empowered, at their own cost and charge, to construct a Harbour in front of lots numbers twenty-seven and twenty-eight, on Lake Ontario, in the Township of Clark aforesaid, which shall be accessible to and fit, safe and commodious, for the reception of such description of vessels as commonly navigate the said Lake; and also to erect and build all such needful moles, piers, wharves, buildings and erections whatsoever, as shall be useful and proper for the protection of the said Harbour, and for the accommodation and convenience of vessels entering, lying, loading and unloading, within the same, and to alter and amend, repair and enlarge the same, as may be found expedient and necessary.

Company may construct  
Harbour, &c.

III. *And be it further enacted by the authority aforesaid*, That the Directors of the said Company shall be, and they are hereby empowered, to contract, compound, compromise and agree, with the owners and occupiers of any land through or upon which they may determine to cut and construct the said Harbour, with all necessary and convenient roads, streets and approaches thereto, to be constructed and made, either for the absolute purchase of so much of the said land as they shall require for the purposes of the said Company, or for the damages which they shall and

Company may contract  
for purchase, &c. of lands,  
&c. required.

may be entitled to recover from the said Company, in consequence of the said intended Harbour, roads, streets and approaches thereto, being cut, made and constructed, in and upon their respective lands ; and in case of any disagreement between the said Directors and the owners or occupiers aforesaid, it shall and may be lawful, from time to time, as often as the Directors shall think fit, for each owner or occupier so disagreeing with the said Directors, either upon the lands and tenements proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one or more indifferent persons, and for the said Directors to nominate an equal number of indifferent persons, who, together with one other person, to be elected by ballot by the persons so named, shall be arbitrators to award, determine, adjudge and order, the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of a majority of whom shall be final ; and the said arbitrators shall, and they are hereby required, to attend at some convenient place in the vicinity of the said intended Harbour, to be appointed by the said Directors, after eight days notice given them for that purpose by the said Directors, then and there to arbitrate, award, adjudge and determine, such matters and things as shall be submitted to their consideration by the parties interested ; and that each arbitrator shall be sworn before some one of Her Majesty's Justices of the Peace, in and for the said District, any of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties, according to the best of his judgment: *Provided always*, that any award made under this Act, shall be subject to be set aside, on application to the Court of King's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case a reference may be again made to arbitrators, as hereinbefore provided ; and that the said Company shall in no case take possession of any land, the value of which shall be so awarded, unless payment be made according to the said award, or a tender thereof made to the party therein interested.

In case of disagreement,  
Arbitrators to be  
appointed.

Award subject to be set  
aside by Court of King's  
Bench.

Company to have power  
to establish tolls, &c.

IV. *And be it further enacted by the authority aforesaid*, That as soon as the said Harbour shall be so far completed as to be capable of receiving and sheltering vessels, the said Company shall have full power and authority to ask for, demand, receive and take, as tolls to and for their own proper use and benefit and behoof, on all goods, wares and merchandize, shipped or landed on board or out of any vessel or boat, from or upon any part of the Lake shore, in front of lots number twenty-seven and twenty-eight, first concession or broken front of the said Township of Clark, in the said District of Newcastle, and upon all vessels and boats entering the said Harbour, according to the rates following, that is to say—Pot and

pearl ashes, per barrel, six-pence; pork, whiskey, salt beef and lard, per barrel, four-pence; flour, per barrel, three-pence; merchandize, per barrel bulk, four-pence; lard and butter, per keg, one penny; merchaudize, per ton, five shillings; West India staves, per thousand, two shillings; shingles, per thousand, sixpence; shingle bolts, per cord, three shillings; pipe staves, per thousand, ten shillings; deals, per hundred pieces, three shillings; wheat and other grain, per sixty pounds, one penny; lumber, per thousand feet, board measure, one shilling; boats under five tons, free; boats and vessels under twelve tons, one shilling and three-pence; boats and vessels above twelve tons, and not over fifty tons, two shillings and six-pence; vessels over fifty tons, five shillings; and all articles not enumerated, to pay in proportion to the above rates, subject to the direction of the Directors appointed by virtue of this Act: *Provided, nevertheless*, that the said Directors shall have power to reduce the said rates of tolls should they see fit.

V. *And be it further enacted by the authority aforesaid*, That the said harbour, moles, piers, wharves, buildings, erections, and all materials which shall be from time to time got or provided for constructing, building maining, or repairing the same; and the said tolls on goods, wares and merchandize, as hereinbefore mentioned, shall be and the same are hereby vested in the said Company and their successors for ever.

Harbour, &c. vested in Company.

VI. *And be it further enacted by the authority aforesaid*, That if any person shall neglect or refuse to pay the tolls or dues to be collected under this Act, it shall and may be lawful for the said Company, or their officer, clerk or servant, duly appointed, to seize and detain the goods, vessels, or boats or other craft, on which the same were due and payable; until such tolls are paid, and if the same shall be unpaid for the space of thirty days next after such seizure, the said Company, or their officers, clerk or servant, as aforesaid, may sell and dispose of the said goods, vessels or boats, or other craft; or such part thereof as may be necessary to pay the said tolls, by public auction, having given ten days notice thereof, and return the overplus, if any, to the owner thereof.

Remedy in case of refusal to pay tolls, &c.

VII. *And be it further enacted by the authority aforesaid*, That the stock, property, affairs and concerns, of the said Company shall be managed and conducted by five Directors, one of whom shall be chosen President, and three of whom shall be a quorum, who shall hold their office for one year; which said Directors shall be Stock-holders to the amount of at least four shares, as well as inhabitants of this Province, and be elected on the third Monday in June in every year, at such place, and at

By what Officers affairs of Company to be managed, &c.

Qualification of Directors. How chosen, &c.

such time of the day, as a majority of the Directors for the time being shall appoint; and public notice thereof shall be given in the Upper Canada Gazette, and in any Newspaper that may be published in the said District of Newcastle, at least thirty days previous to the time of holding said election; and the said election shall be held and made by such of the Stock-holders of the said Company as shall attend for that purpose in their own proper persons, or by proxy; and all elections for such Directors shall be by ballot, and the five persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen at any such elections that two or more have an equal number of votes, in such manner that a greater number of persons than five shall, by plurality of votes, appear to be chosen Directors, then the said Stock-holders hereinbefore authorised to hold such election, shall proceed to elect by ballot until it is ascertained which of the said persons so having an equal number of votes shall be Directors so as to complete the whole number of five; and the said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President; and if any vacancy shall at any time happen among the Directors by death, resignation, or removal from the Province, such vacancy shall be filled up for the remainder of the year in which it may happen by a person to be nominated by a majority of the Directors.

President to be elected.

Votes to be regulated by number of shares held by Stockholders.

VIII. *And be it further enacted by the authority aforesaid,* That each Stockholder shall be entitled to a number of votes proportioned to the number of shares which he shall have held in his own name, at least one month prior to the time of voting, according to the following rates, that is to say:—One vote for each share not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares; and one vote for every five shares above ten.

When first election of Directors to be held.

Shares to amount of £1000 to be first taken up.

IX. *And be it further enacted by the authority aforesaid,* That on the third Monday in June, after the passing of this Act, a meeting of the Stockholders shall be held in the Township of Clark, who, in the same manner as hereinbefore provided, shall proceed to elect five persons to be Directors, who shall continue in such office until the third Monday in June next after their election, and who during such continuance shall discharge the duties of Directors, in the same manner as if they had been elected at an annual election: *Provided always,* that if shares to the amount of one thousand pounds of the capital stock of the said Company shall not be taken up, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days notice thereof given in the Upper Canada Gazette, and any newspaper that may be published in the said District.

X. *And be it further enacted by the authority aforesaid,* That the whole capital stock of the said Company, inclusive of any real estate which the said Company may have or hold by virtue of this Act, shall not exceed in value five thousand pounds, to be held in eight hundred shares, of six pounds five shillings each; and that the shares of the said capital stock may, after the first instalment thereon has been paid, be transferred by the respective persons subscribing or holding the same to other persons, and such transfer shall be entered or registered in a book to be kept for that purpose by the said Company.

Limitation of Capital Stock.

XI. *And be it further enacted by the authority aforesaid,* That as soon as Directors shall have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days notice thereof in manner before-mentioned, for an instalment of ten per centum upon each share, which they or any of them respectively may subscribe; and that the residue of the share or shares of the Stockholders shall be payable by instalments, in such time and in such proportion as a majority of the Stockholders, at a meeting to be expressly convened for that purpose shall agree upon, so as no such instalment shall exceed ten per centum, nor become payable in less than thirty days after public notice given in the manner before-mentioned: *Provided always,* that the said Directors shall not commence the construction of the said Harbour, until the first instalment shall have been paid in.

Directors to call in instalments of Stock, &c.

XII. *And be it further enacted by the authority aforesaid,* That if any Stockholder as aforesaid shall refuse or neglect to pay at the time required any such instalment as shall be lawfully required by the Directors, as due upon any shares, such Stockholder so refusing or neglecting shall forfeit such shares aforesaid, with any amount which shall have been previously paid thereon, and that the said shares may be sold by the Directors, and the sum arising therefrom, together with the amount previously paid in, shall be accounted for and applied in like manner as the monies of the said Company: *Provided always,* that the purchaser shall pay the said Company the amount of the instalment required over and above the purchase money of the shares, so purchased by him as aforesaid, immediately after the sale and before they shall be entitled to the certificate of the transfer of such shares so purchased as aforesaid: *Provided always, nevertheless,* that thirty days public notice of the sale of such forfeited shares shall be given in the manner hereinbefore directed, and that the instalment due may be received in redemption of any such forfeited shares, at any time before the day appointed for the sale thereof.

Forfeiture of shares, in event of non-payment of instalment, &c.

Purchaser of forfeited Stock, to pay up instalment in arrear immediately.



Dividends to be made.

XIII. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company as to them or a majority of them shall seem advisable; and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such statement to appear on the books, and to be open to the perusal of any Stockholder, at his reasonable request.

The Queen or her Successors may assume Work at end of fifty years, upon condition, &c.

XIV. *And be it further enacted by the authority aforesaid,* That at any time after fifty years after the making and completing the said Harbour, Her Majesty, Her Heirs and Successors, may assume the possession and property of the same, and all and every the works and dependencies thereto belonging, upon paying to the said Company, for the use of the Stockholders thereof, the full amount of their respective shares, or of the sums furnished and advanced by each Subscriber towards making and completing the said Harbour, together with such further sum as will amount to twenty-five per centum upon the monies so advanced and paid, as a full indemnification to such Company, and the said Harbour shall, from the time of such assumption in manner aforesaid, appertain and belong to Her Majesty, Her Heirs and Successors, who shall from thenceforth be substituted in the place and stead of the said Company, upon the conditions and subject to the provisions of any Act of the Legislature of this Province that may be passed respecting the same: *Provided always,* that it shall not be lawful for Her Majesty, Her Heirs and Successors, at any time after the expiration of the said fifty years, to assume the possession and property of the said Harbour, with its appurtenances as aforesaid, unless it shall appear from the accounts of the said Company, to be for that intent laid before the Legislature, that the Stockholders of the said Company have received every year, upon an average, the sum of twelve pounds, ten shillings, for every hundred pounds they shall be possessed of in the said concern.

When Her Majesty or her Successors assume the Work, tolls &c. to be paid Receiver General.

XV. *And be it further enacted by the authority aforesaid,* That from and after the period when the possession of the right, interest and property, in and to the said Harbour shall have been assumed by Her Majesty, Her Heirs and Successors, as hereinbefore authorised, all tolls and profits arising therefrom shall be paid into the hands of Her Majesty's Receiver General of this Province, at the disposition of the Legislature thereof: *Provided always,* that the said Harbour shall be commenced within two years, and completed within seven years after the passing of this Act, otherwise this Act, and every matter and thing therein contained, shall cease and be utterly null and void.

XVI. *And be it further enacted by the authority aforesaid,* That nothing herein contained shall give the said Company the exclusive right of fishing <sup>Restraints as to right of fishing, &c.</sup> within the said Harbour and Lake-shore, within the limits before-mentioned; and that it shall not be lawful for any person to catch or kill, or attempt to take, catch or kill, any fish by torch or fire-light within one hundred yards of any works erected by the said Company.

XVII. *And be it further enacted by the authority aforesaid,* That if any person shall be duly convicted, by the oath of a credible witness, before any two of Her Majesty's Justices of the Peace for the said District, of having so caught or killed, or so attempted to catch or kill any fish in manner aforesaid, such person, upon conviction as aforesaid, shall forfeit and pay a sum not exceeding five pounds, nor less than five shillings, for every offence so committed, with all reasonable costs both before and after conviction, or in default of payment to be committed to the common Gaol of such District as aforesaid, for a term of not more than thirty days, nor less than two days, unless the fine and costs are sooner paid. <sup>Punishment for attempting to take fish, &c.</sup>

XVIII. *And be it further enacted by the authority aforesaid,* That it shall remain in the power of the Legislature to make any alteration in the provisions of this Act, or any addition thereto, which may seem to them expedient. <sup>Legislature to have power to alter provisions of Act.</sup>

## CHAP. XXXII.

*AN ACT to Incorporate certain persons under the style and title of the Waterloo Bridge Company.*

[Passed 6th March, 1838.]

**WHEREAS** William Scollick, Adam Ferrie, the younger, Thomas H. McKenzie, David Clemens, John Erb, Peter Erb, Abraham Erb, Abraham Kolb, Jacob C. Snyder, Jacob Shantz, Daniel Snyder, David Snyder, Henry Bechtel, George Clemens, Isaac Master, Jacob Hespeter, John Scott, and others, have by petition, prayed to be incorporated for the purpose of erecting a Toll Bridge on the Grand River, in the Township of Waterloo, in the District of Gore: *Be it therefore enacted,* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal <sup>Preamble.</sup>

Waterloo Bridge Company incorporated.

certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,' and by the authority of the same, That the said William Scollick, Adam Ferrie, the younger, Thomas H. McKenzie, David Clemens, John Erb, Peter Erb, Abraham Erb, Abraham Kolb, Jacob C. Snyder, Jacob Shantz, Daniel Snyder, David Snyder, Henry Bechtel, George Clemens, Isaac Master, Jacob Hespeter, John Scott, and such other persons as shall become Stockholders of the Company hereinafter mentioned, shall be and are hereby ordained, constituted and declared, to be a body politic and corporate, in fact, and by the name of "The Waterloo Bridge Company."

Husband of femme covert Stockholder to be regarded as the Corporation.

II. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this Act contained, shall extend to give to any femme covert who shall be a subscriber to the stock of the said Company, a right to be regarded as a member of the Company, but that her husband shall be regarded as the Stockholder in her stead, notwithstanding the name of such femme covert, and not that of her husband, shall have been subscribed to the Stock of the said Company.

General powers of the Company to erect Bridge;

of certain dimensions;

and conveniences;

to erect toll-bars;

to take and use land, &c. for building and repairs.

III. *And be it further enacted by the authority aforesaid,* That the said Company be and they are hereby authorised and empowered, at their own cost and charge, to erect a good and substantial Bridge over the Grand River, at or near the residence of Christian Shantz, the elder, in the Township of Waterloo, in the District of Gore; which bridge shall be at least twenty-five feet in width, and of sufficient strength to carry the heaviest carriages and cattle of every description; with sufficient side-rails for the security of passengers, and a convenient foot-way for passengers separated from the carriage-way by a secure railing; and that the said Company shall also be at liberty to erect and build such toll-houses, toll-bars and dependencies, as they may deem proper, on or near the said Bridge; and that for the purpose of erecting and keeping in repair the said Bridge, they shall have full power and authority to take, from time to time, and use such land on either side of the said River as may be necessary, and there to lay timber, boards, lumber, stone, gravel, sand and all other materials which may be required for building, maintaining or repairing the said Bridge, and there to make, work up and finish the same, doing no unnecessary damage; and also to construct, make, perform, and do all other matters and things which they shall think necessary and convenient for erecting, completing, maintaining, improving and using the said Bridge, in pursuance of and within the true intent and meaning of this Act.

IV. *And be it further enacted by the authority aforesaid;* That the said Bridge, toll-houses and other dependencies, at or near thereto, the approaches thereto, and all materials which shall be, from time to time, gotten or provided for erecting and maintaining the same, shall be and the same are hereby vested in the said Company and their successors for ever; and so soon as the said Bridge shall be erected and built, and the same, as well as the access thereto, shall be made fit and proper for the passage of travelling carriages, and cattle of every description, and the same shall have been inspected and approved of by two Justices of the Peace for the District, it shall be the duty of the said Justices to give to the said Company, a certificate under their hands and seals to that effect, which certificate shall be published twice in some newspaper published in the District of Gore; after which publication it shall and may be lawful for the Company, from time to time, and at all times, to ask for, receive and take, to and for their own proper use, benefit and behoof, as toll or duty, the following sums, that is to say—Every waggon or sleigh, with one pair of horses, six-pence; every waggon or sleigh, with two pair of horses, ten-pence; every pleasure carriage, with two horses, seven-pence half-penny; every sleigh or pleasure waggon, with one horse, four-pence; for every additional horse to such pleasure sleigh or waggon, two-pence; every saddle horse, four-pence; every sleigh or waggon, with one yoke of oxen, four-pence; every additional yoke to ditto, three-pence; every head of horned cattle, two-pence; every hog, pig, goat or calf, one penny; every sheep or lamb, one half-penny; every horse, when in droves, three-pence; every ass or mule, three-pence; every foot passenger, one penny: *Provided*, that the said Company shall affix, and keep affixed, at or near the toll-house or gate, a table of the rates of toll payable for passing over the bridge, painted in plain and conspicuous characters.

Property vested in the Corporation.

Certificate of inspecting Justices that the Bridge is available.

Company entitled to receive tolls

Scale of tolls

V. *And be it further enacted by the authority aforesaid,* That the said tolls shall be, and the same are hereby vested in the said Company, and their successors.

Tolls vested in the Company.

VI. *And be it further enacted by the authority aforesaid,* That if any person shall pass over, or wilfully attempt to pass over the bridge, without paying the toll; every such person shall forfeit and pay to the Company the sum of five shillings, to be recovered on the oath of one or more credible witness or witnesses; or upon confession of the party before some one of Her Majesty's Justices of the Peace for the District of Gore; and in default of payment, the said penalty shall be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand seal of such Justice, and the overplus (if any) shall be returned to the owner; and in case no such distress shall be found, such offender shall be commit-

Penalty for evading payment of tolls.

ted to the Common Gaol of the District, for a term not exceeding one week, at the discretion of such Justice.

Malicious destruction of Bridge, felony.

VII. *And be it further enacted by the authority aforesaid,* That if any person shall maliciously pull down or destroy the said Bridge, or set fire to any part thereof, every person so offending, being thereof lawfully convicted, shall be deemed guilty of felony.

Penalty for malicious injuries to property of the Corporation.

VIII. *And be it further enacted by the authority aforesaid,* That if any person shall maliciously or wantonly pull down or destroy any part of the said Bridge, or of any toll-house or other work erected or made by virtue of this Act, or any part thereof, every such person shall forfeit and pay for every such offence, to the said Company, a sum not exceeding twenty pounds, nor less than five pounds, and that the same may be recovered, upon the oath of one credible witness, or upon confession of the party before any one of Her Majesty's Justices of the Peace in and for the said District; and in default of payment, the said penalty shall be levied by distress and sale of the goods and chattels of such offender, by warrant under the hand and seal of such Justice, and the overplus, if any, after deducting the charges of distress and sale, shall be returned to the owner; and in case no distress shall be found, such offender shall be committed to the Common Gaol of the District, for a time not exceeding fourteen days, at the discretion of the Justice: *Provided,* that nothing herein-contained shall prevent, or be construed to prevent the said Company, from commencing or maintaining any action at law against any person guilty of such offence.

Election of five Directors.

IX. *And be it further enacted by the authority aforesaid,* That the stock, property, estate and effects, of the said Corporation, shall be managed and conducted by five Directors, one of whom shall be chosen President, who shall hold their offices for one year, which Directors shall be Stockholders, and inhabitants of this Province, and be elected on the last Monday in January in each and every year, at such place and at such time as the Directors for the time being may appoint; and public notice thereof shall be given in some one newspaper published in the District, at least ten days previous to the time of holding the said election; and the said election shall be held and made by such of the Stockholders of the said Company, as shall attend for that purpose in their own proper persons, or by proxy; and all such elections shall be by ballot, and the five persons who shall have the greatest number of votes shall be Directors; and if it shall happen at any such election, that two or more persons have an equal number of votes, then the said Stockholders shall again proceed by ballot, until it is determined which of the persons so having an equal number

Notice.

Election by ballot.

of votes shall be Director or Directors, so as to complete the number of five; and the said Directors, so soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President; and if any Director shall absent himself from the Province, and cease to be an inhabitant thereof for the space of six months, his office shall be considered vacant, and if any vacancy shall happen among the Directors, by death, resignation, or removal from the Province, such vacancy shall be filled for the remainder of the year in which it may happen, by a person nominated by a majority of the remaining Directors: *Provided always*, that no person shall be eligible to be a Director who shall not be a Stockholder to the amount of five shares.

Choice of President.

Vacancies in Direction.

X. *And be it further enacted by the authority aforesaid*, That each Stockholder shall be entitled to a number of votes proportioned to the number of shares which he shall have held in his own name, at least one month prior to the time of voting, according to the following rates, that is to say, one vote for each share not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares, and one vote for every five shares above ten.

Scale of votes according to number of shares.

XI. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the Directors to make half-yearly dividends in the months of January and July in each year, of so much of the profits of the said Company as to a majority of them shall appear advisable; and that once in each year, at the general election of Directors, an exact and particular statement shall be rendered of the affairs of the Company, for the satisfaction of the Stockholders.

Half-yearly dividends;

And annual statement of the Company's affairs.

XII. *And be it further enacted by the authority aforesaid*, That each share in the said Company shall be Six Pounds Five Shillings, and the number of shares shall be one hundred and twenty: *Provided always*, that if the sum of Seven Hundred and Fifty Pounds, to be so raised, shall be found insufficient to complete the said Bridge, it shall and may be lawful for the Directors to declare the same, by a resolution passed for that purpose, which shall be published in the several Newspapers published in the District of Gore; and that in such case additional stock may be subscribed, and held under the provisions of this Act, so that the whole number of shares do not exceed two hundred and forty; and all persons thus becoming Stockholders shall be entitled to all the privileges and benefits of this Act, in as full and ample a manner as if they had been original Subscribers.

Value and number of shares.

Additional stock may be subscribed, if necessary.

Calling in instalments.

XIII. *And be it further enacted by the authority aforesaid,* That so soon as the Directors shall be elected after the passing of this Act, it shall and may be lawful for them to call in by Instalments of not more than ten per cent. on each share, the amount of the shares subscribed, which are hereby declared to be due and payable to the said Company, as above mentioned: *Provided,* that no Instalment shall be called for in less than thirty days after public notice shall have been given, in one or more of the Newspapers published in the District: *Provided always,* that if any Stockholder shall neglect or refuse to pay to the said Company the Instalment due on any share or shares held by him, at the time required by Law, such Stockholder shall forfeit such share or shares, with the amount previously paid thereon; and the share or shares shall be sold by the Directors, at public auction, after having given thirty days notice, and the proceeds thereof, together with the amount previously paid thereon, shall be accounted for, and applied in like manner as any other funds of the said Company: *Provided always,* that such purchaser shall pay to the said Company the amount of the Instalment due, over and above the purchase money of the share or shares so purchased by him, immediately after the sale, and before he shall be entitled to a certificate of the transfer of such share or shares so purchased.

Thirty days' notice.

Forfeiture on non-payment of instalments.

After first instalment paid, shares transferable;

And deemed private property.

XIV. *And be it further enacted by the authority aforesaid,* That after the first Instalment on each share shall have been paid to the said Company, the shares shall become transferable on the Books of the Company; and that such share or shares shall be deemed personal property, and as such may be disposed of and distributed, and shall like other personal property be subject to execution and sale in satisfaction of debts.

First public meeting.

XV. *And be it further enacted by the authority aforesaid,* That on the fourth Monday after the passing of this Act, a meeting of the Stockholders shall be held at such place as a majority may agree upon, who in the manner hereinbefore provided shall proceed to elect five persons to be Directors, who shall continue in office as such Directors until the last Monday in January, next after their election.

Diminution of established tolls.

XVI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Directors for the time being, to diminish the rate of toll or duty on passing the said Bridge, as hereinbefore established, to such standard as to them, or a major part of them, shall seem necessary: *Provided always,* that no such diminution shall be construed to prevent them from again increasing the same, as they shall deem expedient, so that such increase do not exceed the rate of toll hereinbefore established by the fourth Clause of this Act.

XVII. *And be it further enacted by the authority aforesaid,* That the said Company, to entitle themselves to the benefits and advantages to them by this Act granted, shall, and they are hereby required to erect and complete the said Bridge, Toll-houses, approaches and dependencies, within two years from the passing of this Act; and if the same shall not be completed within the time specified, so as to afford a convenient and safe passage over the said Bridge, the said Company shall cease to have any right, title or claim, of, in or to the tolls hereby imposed, which shall from thence forward belong to Her Majesty; and the said Company shall not by the said tolls or otherwise be entitled to any reimbursement of the expenses they may have incurred in erecting the said Bridge; and in case the said Bridge, after it shall have been erected and completed, shall at any time become impassable or unsafe for travellers, carriages or cattle, the said Company and their successors shall, and they are hereby required, within two months from the time at which the said Bridge, by presentment of a Grand Jury at any General Quarter Sessions of the Peace in and for the Gore District, shall be declared to be impassable or unsafe, and notice thereof to the Directors by the said Court be given, to cause the same to be repaired or rebuilt, and made safe and commodious for the passage of travellers, carriages and cattle; and if within the time last mentioned the said Bridge be not so repaired or rebuilt, as the case may require, then the said Bridge and all its dependencies shall be taken and considered to be the property of Her Majesty, and the right of the said Company and their successors, in the premises, shall be wholly and for ever determined: *Provided always,* that before the said default is incurred, and during the interval hereby allowed for repairing or rebuilding the Bridge, it shall be lawful for the said Company and their successors, and they are hereby authorized and required to provide proper and convenient ferry-boats or scows, for the passage of travellers, carriages and cattle, over the said River, as near to the said Bridge as conveniently may be, and to demand, collect and receive, for the carriage of such travellers, carriages and cattle, in the said ferry-boats and scows, before they respectively shall be permitted to pass, the like tolls as are hereby authorised to be taken for passing over the said Bridge, any thing herein-contained to the contrary notwithstanding.

Time limited for completion of bridge, &c.

Consequences of allowing the Bridge to become impassable.

Ferry-boats may be established, when rendered necessary by repair &c. of Bridge.



## CHAP. XXXIII.

*AN ACT to Incorporate certain persons under the style and title of  
“The Windsor Road Company.”*

[Passed 6th March, 1838.]

Preamble.

**WHEREAS** James T. Somerville, L. Hayden, A. W. Perry, A. Macpherson, George McGill, Ezra Annis, Samuel Cockrane, Charles Farewell, A. Norton, and others, have, by petition, prayed for an Act of Incorporation to be passed to enable such of the said petitioners, and others desiring to establish a single or double Railway, or Macadamized Road, or both, from some point of Windsor Harbour, in the Township of Whitby, to the Main York Road or Dundas Street, with a Capital of Five Thousand Pounds: *And whereas*, it is expedient to grant the prayer of said petition: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,’” and by the authority of the same, That the said James T. Somerville, L. Hayden, A. W. Perry, A. Macpherson, George McGill, Ezra Annis, Samuel Cockrane, Charles Farewell, and A. Norton, with all such other persons as shall become Stockholders in such Joint Stock or Capital as is hereinafter mentioned, shall be and are hereby ordained, constituted and declared, to be a body corporate and politic, in fact, by and under the name and style of “The Windsor Railway or Macadamized Road Company.”

Company incorporated.

Company may construct road between Windsor and Main York Road.

II. *And be it further enacted by the authority aforesaid*, That the said Company, and their agents or servants, shall have full power under this Act, to lay out, construct, make and finish, a double or single iron or wooden Rail-road or Way, or Macadamized Road, or both, at their own costs and charges, on and over any part of the country lying between the said Windsor Harbour, and the Main York Road or Dundas Street aforesaid, and to take, carry and transport thereon, passengers, goods and property, in carriages used and propelled either by the force of steam or by the power of animals, or by any mechanical or other power, or by any combination of power which the said Company may choose to employ.

III. *And be it further enacted by the authority aforesaid,* That the said Company be and they are hereby empowered to contract, compound, compromise and agree, with the owners or occupiers of any lands upon which they may determine to construct the said Railway or Macadamized Road, or both, either by purchase of so much of the said land as they shall require for the purposes of the said Company, or for the damages which he, she or they, shall and may be entitled to receive of the said Company, in consequence of the said intended Railway or Macadamized Road being made and constructed in and upon his her or their respective lands; and in case of any disagreement between the said Company and the owner or owners, occupier or occupiers as aforesaid, it shall and may be lawful, from time to time, for each owner or occupier so disagreeing with the said Company, either upon the value of the lands and tenements, or private privileges proposed to be purchased, or upon the amount of damages to be paid to them as aforesaid, to nominate and appoint one or more indifferent person or persons, and for the Company to nominate and appoint an equal number of indifferent persons, who, together with one other person to be elected by ballot by the persons so named, shall be Arbitrators to award, determine, adjudge and order, the respective sums of money which the said Company shall pay to the respective persons entitled to receive the same, the award of a majority of whom shall be final; and the said Arbitrators shall, and they are hereby required, to attend at some place convenient to the said intended railway or road, to be appointed by the said Company, then and there to arbitrate, award, adjudge and determine, such matters and things as shall be submitted to their consideration by the parties interested; and that such Arbitrators shall be sworn before some one of Her Majesty's Justices of the Peace in and for the said District, any one of whom may be required to attend the said meeting for that purpose, well and truly to assess the damages between the parties according to the best of his judgment: *Provided always,* that any award made under this Act shall be subject to be set aside on application to the Court of King's Bench, in the same manner and on the same grounds as in ordinary cases of submission by the parties, in which case a reference may be again made to arbitration as hereinbefore provided.

Company may contract for lands;

Or for damages.

In case of disagreement, each party may appoint Arbitrators;

Who, with one other to be chosen by ballot, shall determine amount of compensation.

Award of majority final.

Place of meeting.

Arbitrators to be sworn before justice of the Peace.

Award subject to the jurisdiction of the Court of King's Bench.

IV. *And be it further enacted by the authority aforesaid,* That whatever sum of money may be finally awarded to any persons for compensation for property required to be occupied, or for damages occasioned by the interference of the said Company, with his, her or their property, rights or privileges, shall be paid within twelve months from the time of the same being awarded; and in case the Company shall fail to pay the same within that period, then their right to assume any such property, or commit any act in respect of which such sum of money was awarded, shall wholly

Compensation awarded to be paid within twelve months;

Or property may be resumed.

cease; and it shall be lawful for the proprietor to resume his occupation of such property, and to possess fully his rights and privileges in respect thereof, free from any claim or interference of the said Company.

Company may explore country along intended line of road;

V. *And be it further enacted by the authority aforesaid,* That the said Windsor Harbour, Railway or Road Company, shall have full power and authority to explore the country lying between the said Windsor Harbour and the Main Road leading to the City of Toronto, or Dundas Street; and to designate and establish, and to take, appropriate, have and hold, to and for the uses of them and their successors, the line and boundaries of a double or single Railway or a Macadamized Road, or both as aforesaid, with the necessary Railways or Roads, to connect the said Harbour with the aforesaid Road on Dundas Street; and for the purposes aforesaid the said Company, and their agents, servants and workmen, are hereby authorised and empowered to enter into and upon the lands and grounds of and belonging to the Queen's Majesty, Her Heirs and Successors, or to any other person, bodies politic or corporate, and to survey and take levels of the same, or any part thereof, and to set out and ascertain such parts thereof as may be actually necessary and proper for making the said double or single Railway or Road, and all such matters and conveniences as they may think proper and necessary for making, effecting, preserving, improving, completing and using, the said intended Railway or Road, or both, to the best advantage; and also to make, erect, build and set up, in and upon the route of the Railway or Road, or both, or upon the lands adjoining or near the same, all such ways, roads and conveniences as the said Company shall think requisite and convenient for the purposes of the said Way or Road; and also, from time to time, to alter, repair, amend, widen or enlarge the same, or any other of the conveniences aforesaid, as well for carrying or conveying goods, commodities, timber and other things, to and from the said Way or Road, as for the carrying or conveying of all manner of materials necessary for making, erecting, furnishing, altering, repairing, amending, widening or enlarging, the works of and belonging to the said Way or Road; and also place, lay, work and manufacture the said materials, on the ground near to the places where the said works are or shall be intended to be made, erected, repaired or done, and to build and construct the several works and erections belonging thereto; and also to make, maintain, repair and alter, any fences or passages under or through the said Way or Road, or which shall communicate therewith; and to construct, erect and keep in repair, any piers, arches or other work, in, upon and across, any rivers or brooks, for making, using, maintaining and repairing, the said Way or Road, and its side-paths; and also to construct, make and do all other matters and things, which they shall think necessary and convenient, for the making, effecting, preserving, improving,

And appropriate and hold land necessary for their Road;

And alter and enlarge the road from time to time.

Materials, &c. may be manufactured on the ground, near the line of road.

Repairing and altering fences, &c.

General powers of the Company.

completing and using, the said Railway or Macadamized Road, in pursuance and within the true meaning of this Act; they the said Company doing as little damage as may be in the execution of the several powers to them hereby granted, and making satisfaction in manner herein-mentioned for all damages to be sustained by the owners or occupiers of such lands, tenements and hereditaments.

Doing as little damage as may be.

VI. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the President and Directors of the said Company, from time to time, to fix, regulate and receive, the tolls and customs to be received for the transportation of property or persons on the single or double Railway or Macadamized Road, or both, hereby authorized to be constructed, erected, built, made and used.

President and Directors to establish and regulate tolls, &c.

VII. *And be it further enacted by the authority aforesaid,* That the said single or double Railway or Macadamized Road, or both, and appurtenances, and all materials which shall be, from time to time, got or provided for constructing, building, maintaining or repairing the same, and the said tolls on goods, wares, merchandize or passengers, as hereinbefore mentioned, shall, and the same are hereby vested in the said Company and their successors for ever.

Rail-road and tolls, &c. vested in the Company.

VIII. *And be it further enacted by the authority aforesaid,* That so soon as the said double or single iron or wooden Railway or Macadamized Road, or both, shall be so far completed as to be capable of being used for the transportation of property or passengers, the said Company shall have full power and authority to ask for, demand, receive, recover and take, the tolls and dues to and for their own proper use and benefit, on all goods, merchandize and passengers, using or occupying the said Railway or Road, or both, or any other convenience, erection or improvement, built, occupied or owned, by the said Company, to be used therewith; and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken and carried on the same, as well as the manner of collecting all tolls and dues on account of transportation and carriages; and shall have power to erect and maintain such toll-houses and other buildings for the accommodation and proper transaction of their business, as to them may seem necessary.

Tolls, &c. when payable.

Power to regulate transport of goods and passengers, and collection of tolls.

To erect Toll-houses.

IX. *And be it further enacted by the authority aforesaid,* That whenever it shall be necessary for the construction of their single or double Railway or Road, to intersect or cross any stream of water, or water course, or any road or highway lying on the route of the said Railway or Road, between the said Harbour and the said Road or Street, it shall be

Company may construct their rail-way across any stream or water-course, highway, &c.;

Restoring former usefulness of such stream, &c.

lawful for the said Corporation to construct their Railway or Road across or upon the same: *Provided*, that the said Corporation shall restore the stream or water-course, road or highway, thus intersected, to its former state, so as its usefulness be not impaired; and shall moreover erect and maintain, during the continuance of their corporate capacity, sufficient fences upon the line of the route of their Railway or Macadamized Road.

Persons wilfully injuring the works, to forfeit double the amount of damage done.

X. *And be it further enacted by the authority aforesaid*, That if any person shall wilfully do, or cause to be done, any act whatever whereby any building, construction or work, of the said Corporation, or any engine, machine or structure, or any matter or thing appertaining to the same shall be stopped, obstructed; impaired, weakened, injured or destroyed, the person so offending shall forfeit and pay to the said Corporation, double the amount of the damages sustained by means of such offence or injury; to be recovered in the name of the said Corporation, by action of debt, to be brought in any Court of Record in this Province.

How recoverable.

Affairs of the Company, to be managed by seven Directors; One of whom to be President.

Qualification.

Thirty days notice of election.

Election by ballot.

Provision in case of equality of votes.

Election of President.

Supply of vacancies during current year.

XI. *And be it further enacted by the authority aforesaid*, That the property, affairs and concerns, of the said Company, shall be managed and conducted by seven Directors, one of whom shall be chosen President, who shall hold their offices for one year; which said Directors shall be Stockholders to the amount of at least four shares, and be elected on the first Monday in February in every year, at Windsor aforesaid, in the Township of Whitby, at such time of the day as a majority of the Directors for the time being shall appoint; and public notice thereof shall be given in some Newspaper published in the Home District, at least thirty days previous to the time of holding the said election; and the said election shall be held and made by such of the Stockholders of the said Company as shall attend for that purpose in their own proper persons, or by proxy; and all elections for such Directors shall be by ballot, and the seven persons who shall have the greatest number of votes at any election shall be Directors; and if it shall happen at any election that two or more have an equal number of votes, in such a manner that a greater number of persons than seven shall, by plurality of votes, appear to be chosen Directors, then the said Stockholders hereinbefore authorised to hold such election, shall proceed to elect by ballot until it is determined which of the said persons so having an equal number of votes shall be Director or Directors, so as to complete the whole number of seven; and the said Directors so chosen, as soon as may be after the said election, shall proceed in like manner to elect by ballot one of their number to be President; and if any vacancy or vacancies shall at any time happen among the Directors by death, resignation, or removal from the Province, such vacancy or vacancies

shall be filled for the remainder of the year in which they may happen by a person or persons to be nominated by a majority of Directors.

XII. *And be it further enacted by the authority aforesaid,* That each Stockholder shall be entitled to the number of votes proportioned to the number of shares which he shall have held in his own name, at least one month prior to the time of voting, according to the following rates, that is to say:—One vote for each share not exceeding four; five votes for six shares; six votes for eight shares; seven votes for ten shares; and one for every five shares over ten.

Votes proportioned to number of shares.

XIII. *And be it further enacted by the authority aforesaid,* That if it should at any time happen that an election of Directors should not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day to hold and make an election of Directors, in such manner as shall have been regulated by the by-laws and ordinances of the said Corporation.

Corporation not dissolved by non-election of Directors on day appointed.

XIV. *And be it further enacted by the authority aforesaid,* That the Directors for the time being, or the major part of them, shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper touching the management and disposition of the stock, property, estate and effects, of the said Company, and touching the duty of the officers, clerks and servants, and all such other matters as appertain to the business of the said Company, and shall have power to appoint as many officers, clerks and servants, for carrying on their business, and with such salaries and allowances as to them shall seem fit.

Directors empowered to make By-laws.

XV. *And be it further enacted by the authority aforesaid,* That on the twelfth Monday after the passing of this Act, a meeting of the Stockholders shall be held at Windsor aforesaid, who, in the manner hereinbefore mentioned, shall proceed to elect seven persons to be Directors, who shall elect one of their number to be President, and shall continue in office until the first Monday in February next after their election, and who during such continuance shall discharge the duties of Directors, in the same manner as if they had been elected at the annual election: *Provided always,* that if shares to the amount of ten per cent of the capital stock of the said Company shall not be taken, then the said meeting shall not be held until that amount of stock shall have been taken up, and at least thirty days notice thereof given in some paper or papers published in the Home District.

First meeting of Stockholders;

Period of service;

Amount of stock required to be previously subscribed.

Capital not to exceed  
£5 000.

XVI. *And be it further enacted by the authority aforesaid,* That the whole capital stock of the said Company, inclusive of any real estate which the Company may have or hold by virtue of this Act, shall not exceed in value five thousand pounds, to be held in eight hundred shares, of six pounds five shillings each; and that the shares of the capital stock may, after the first instalment shall have been paid, be transferred by the respective persons subscribing and holding the same to any other person, and such transfer shall be entered or registered in a book or books to be kept for that purpose by the said Company.

Upon appointment of  
Directors, a call for £10  
per cent. may be made.

Payment of residue.

Works not to be com-  
menced until first instal-  
ment paid.

XVII. *And be it further enacted by the authority aforesaid,* That so soon as Directors have been appointed as aforesaid, it shall and may be lawful for them to call upon the Stockholders of the said Company, by giving thirty days notice thereof in some paper or papers published in the Home District, for an instalment of ten per cent upon each share, which they or any of them may respectively subscribe; and that the residue of the sum or shares of the Stockholders shall be payable by instalments, in such time and in such proportions as a majority of the Stockholders, at a meeting to be expressly convened for that purpose, may agree upon, so as that no such instalments shall exceed ten per cent, nor become payable in less than thirty days after public notice in the paper or papers as aforesaid: *Provided always,* that the said Directors shall not commence the construction of the Railway or Road until the first instalment shall be paid in.

Forfeiture of shares on  
non-payment of instal-  
ments.

XVIII. *And be it further enacted by the authority aforesaid,* That if any Stockholder or Stockholders shall refuse or neglect to pay at the time required, any such instalment or instalments as shall be lawfully required by the Directors, as due upon any share or shares, such Stockholder or Stockholders so refusing or neglecting shall forfeit such share or shares as aforesaid, with any amount which shall have been previously paid thereon, and that the said share or shares may be sold by the said Directors, and the sum arising therefrom, together with the amount previously paid thereon, shall be accounted for and applied in like manner as other monies of the said Company: *Provided always,* that the purchaser or purchasers shall pay the said Company the amount of the said instalment or instalments required over and above the purchase money of the share or shares so purchased, immediately after the sale and before he shall be entitled to a certificate of the transfer of such share or shares so purchased as aforesaid: *Provided always,* that thirty days notice of the sale of such forfeited share or shares shall be given in any newspaper or newspapers published in the Home District, and that the instalment due may be received in redemption of any such forfeited share or shares, at any time before the day appointed for the sale thereof.

XIX. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Directors to make annual dividends of so much of the profits of the said Company as to them or a majority of them shall seem advisable; and that once in each year an exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses, such statement to appear on the books, and to be open to the perusal of any Stockholder, at his reasonable request.

Annual Dividends.

XX. *And be it further enacted by the authority aforesaid,* That this Act shall be deemed and taken to be a public Act, and as such shall be judicially noticed by all Judges, Justices of the Peace and other persons, without being specially pleaded.

Public Act.

XXI. *And be it further enacted by the authority aforesaid,* That the said single or double Railway or Macadamized Road, shall be commenced within four years, and completed within eight years after the passing of this Act, otherwise this Act, and every matter and thing therein-contained shall cease, and be utterly null and void.

Period for commencing and completing the works.

XXII. *And be it further enacted by the authority aforesaid,* That notwithstanding the privileges hereby conferred on the said Corporation, the Legislature may at any time hereafter make such addition to this Act, or such alteration of any of its provisions as they may think proper for affording just protection to the public or to any person, bodies politic or corporate, in respect to their estate, property or rights, or any interest therein, or any advantage, privilege or convenience connected therewith, or in respect to any right of way, public or private, that may be afforded by any of the powers given by this Act.

Legislature may alter the provisions of this Act.

XXIII. *And be it further enacted by the authority aforesaid,* That if any action or suit shall be brought against any person for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after the fact committed, and not afterwards; and the defendant or defendants in such action or suit, may plead the general issue only, and give this Act, and the special matter in evidence on the trial.

Limitation of actions.



## CHAP. XXXIV.

*AN ACT for continuing the improvement of the Lake Road, West of the City of Toronto.*

[Passed 6th March, 1833.]

Preamble.

**W**HEREAS the sum of Three Thousand Pounds, granted by an Act of the first Session of the present Parliament, for the purpose of Macadamizing the West York Road, along the Lake Shore, has been expended, and found inadequate to complete the said road to the point contemplated: *And whereas* unless further aid is granted the benefit of the sum already laid out will be lost to the public: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That the Trustees of the West York Road shall or may, out of any monies now or hereafter coming into their hands for the improvement of the West York Road, so soon after the passing of this Act as practicable, complete the improvement of the said front road to the Mimico Creek, or to the point mentioned in the above recited Act.

Trustees of west York road to complete road to Mimico.

II. *And whereas*, the Bridge over the River Humber, where that stream crosses the said front road, is constructed in such a manner as to prevent the passage of boats and other craft, which could otherwise ascend that River for a considerable distance, *Be it therefore enacted by the authority aforesaid*, That the Trustees of the West York Road shall, upon application being made to them by petition of the inhabitants of the townships of Etobicoke and York for that purpose, so alter the construction of the said Bridge as to permit vessels and other craft, with masts, to pass through the said Bridge.

Bridge across the Humber to be altered on petition of inhabitants of Etobicoke and York, so as to admit vessels, &c. to pass through the same.

III. *And be it further enacted by the authority aforesaid*, That William Gamble, and Peter VanEvery, be added to the present board of Trustees for the West York Road.

William Gamble, and Peter VanEvery, added to board of Trustees.

## CHAP. XXXV.

*AN ACT to amend an Act passed in the seventh year of the reign of His late Majesty, King William the Fourth, entitled, "An Act to raise a sum of money to Macadamize the Roads leading from Brockville to Saint Francis, Charleston, Lyndhurst, Beverly and Portland, in the District of Johnstown, and to authorise the erection of toll gates on the said Roads."*

[Passed 6th March, 1838.]

**WHEREAS** by a certain Act of Parliament, passed in the seventh year of the reign of His late Majesty King William the Fourth, entitled, "An Act to raise a sum of money to Macadamize the roads leading from Brockville to Saint Francis, Charleston, Lyndhurst, Beverly and Portland, in the District of Johnstown, and to authorise the erection of toll-gates on the said roads," certain powers and authorities are given to Trustees therein named, and to their successors lawfully appointed; *And whereas* it is necessary and proper for the due performance of the duty imposed upon the said Trustees by the above recited Act, that they should have more ample powers than they already by law possess: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, an "Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act the said Trustees, and their successors lawfully appointed, shall have full power and authority, and they are hereby authorised and empowered to enter upon the lands or premises of any adjacent proprietor or proprietors, and to quarry thereon, or take therefrom, all such stones, earth, timber, or other materials, as the said Trustees, or their successors lawfully appointed, shall or may deem necessary for the constructing, making or repairing, of the roads authorised to be Macadamized by said before-recited statute: *Provided always*, that compensation for any stone or other materials taken under the authority of this Act, shall be assessed and paid in the same manner as compensation for other damages done to the owners of lands under the provisions of the Act first herein recited.

Preamble.

Trustees authorized to take materials from adjacent lands, to complete road;

Compensation to be made the owner of lands.

Trustees authorised to stop up and sell old road;

II. *And be it further enacted by the authority aforesaid,* That the said Trustees shall have power to stop up, sell, dispose of or surrender to any adjacent proprietor or proprietors, in lieu of damages which he, she or they, may claim, for injury sustained by virtue of the exercise of the powers given to the said Trustees in the said before recited Act, any road or roads, or any part of road or roads, which may be rendered useless and unnecessary for the public convenience and welfare, by reason of any alteration in the direction of the said road or roads, which the said Trustees, or a majority of them, may deem necessary and expedient: *Provided,* that before any such old line of road shall be stopped up, sold, disposed of or surrendered under this Act, a notice of an application for that purpose to the Court of General Quarter Sessions for the District of Johnstown, shall be first published, for two calendar months, in some newspaper printed in the said District; and it shall not be lawful to stop up, sell or surrender, such road, unless the Court of Quarter Sessions shall, after hearing any parties interested in the same, who may attend for that purpose, make an order allowing the said road, or any part thereof, to be stopped up, sold and surrendered.

Application being first made and obtained from the Quarter Sessions.

Commissioners authorised to extend branch of road to Newborough;

Satisfaction to be made owners for land appropriated;

Powers of Trustees limited as by provisions of former Act.

III. *And be it further enacted by the authority aforesaid,* That the said Trustees shall have power to continue and extend a branch of the said road to the village of Newborough, in the township of North Crosby, and District of Johnstown: *Provided always,* that reasonable satisfaction be made to the owner or occupier of any lands or premises, for any damages done thereon or thereto, by virtue of this Act: *And provided also,* that all matters and things which shall or may be done by the said Trustees, in and by virtue of the powers herein and hereby conferred upon them, shall be subject to the same limitations, conditions, responsibility and trusts, as are contained in the before recited Act, any thing herein to the contrary notwithstanding.

## CHAP. XXXVI.

*AN ACT to authorise the Justices of the Peace of the District of Talbot to levy an additional Assessment, to liquidate the costs of the erection of the Gaol and Court House for that District, and other purposes therein-mentioned.*

[Passed 6th March, 1838.]

Preamble.

**WHEREAS** in the Act passed in the seventh year of the reign of William the Fourth, Chapter Thirty-three, entitled, "An Act erecting the

County of Norfolk into a separate District, by the name of the District of Talbot," no provision is made, by Assessment or otherwise, by which the loan authorised to be raised upon the credit of the said District of Talbot, for the purpose of erecting a Gaol and Court House therein, can be discharged, except from the public funds of said District, and it is proper to provide by special Assessment for that purpose, as prayed for by petition of the inhabitants of said County: *And whereas*, it is desirable for the more speedy liquidation of such loan, that authority be given for the sale of the site upon which a former Gaol and Court House was erected at the Village of Vittoria, in the said County: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That the Magistrates of and residing within the said District, shall have power, and they are hereby authorised, at a meeting to be convened for that purpose, to Resolve, that an increased Tax, not exceeding one half-penny in the pound, over and above the ordinary Assessment, on all ratable property within the said County, shall be levied, collected and applied, towards liquidating the loan authorised to be contracted by the said recited Act, for the purpose of building a Gaol and Court House in said District: *Provided always*, that such Resolution shall be adopted by a majority of at least two-thirds of the Magistrates of and residing within the said District, and that a copy thereof be transmitted to the Clerk of the Peace of the said District, signed by the Chairman of said meeting.

Magistrates authorised to levy additional tax, to be applied towards liquidating loan contracted for building Jail.

II. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the Clerk of the Peace of the said District, on receiving the aforesaid Resolution from the Magistrates, to add to the Assessment lists of the several Townships within the said District, an increased Tax in conformity with the said Resolution, furnished him as aforesaid; which increased Tax shall continue to be levied and collected annually, and applied for the purposes aforesaid, until the whole of the debt contracted by the erection of the new Court House and Gaol in the said District of Talbot, with the interest arising thereon, shall be fully liquidated and paid.

Assessment lists to be prepared by Clerk of Peace.

III. *And be it further enacted by the authority aforesaid*, That the Magistrates of the said District of Talbot, or a majority of them, at any

Magistrates in General or adjourned Quarter Sessions authorised to sell the site of the late Jail, and apply proceeds in payment of debt contracted in building new Jail.

General or Adjourned Quarter Sessions of the Peace assembled, shall be and are hereby authorised to order the sale, in any way that they may think most advantageous for the purpose, of the site of the late Gaol and Court House erected at Vittoria, in the County of Norfolk aforesaid, and to apply the proceeds arising from such sale, towards the payment of the debt contracted in building the said Gaol and Court House in the said District of Talbot.

Clerk of the Peace required to execute deed of conveyance to purchasers of site of old Jail.

IV. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Clerk of the Peace of the said District, and he is hereby required, to sign, seal and deliver, a good and sufficient deed of conveyance of the said site, upon which the Gaol and Court House was formerly erected in the Village of Vittoria, in the Township of Charlotteville, in the said County of Norfolk, at such times and in such lots, and to such persons as the Magistrates of the said District, in General Quarter Sessions assembled, shall at any time order and direct; which deed of conveyance, when executed, shall convey the lands mentioned therein to the purchasers thereof, according to the terms and conditions therein expressed, freed and discharged from all trusts whatsoever, under and by virtue of which the said premises are now held by the persons to whom the same were conveyed.

Proceeds of sale of old site to be paid into hands of Treasurer of District.

V. *And be it further enacted by the authority aforesaid,* That the purchase money arising from the sale of the aforesaid site shall be paid into the hands of the Treasurer of said District of Talbot, to be applied towards the liquidation of the loan to be contracted as aforesaid, and for no other purpose.

## CHAP. XXXVII.

*AN ACT to provide for the erection of a new Gaol at the Town of London, in the District of London.*

[Passed 6th March, 1838.]

Preamble.

**W**HEREAS the Gaol at the Town of London, in the District of London, is insufficient, and it is expedient that a new Gaol should be erected for the said District: *Be it therefore enacted,* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the

Parliament of Great Britain, entitled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,” and by the authority of the same, That in order to provide funds for the erection of the said Gaol, it shall and may be lawful for the Justices of the Peace of the said District, in General Quarter Sessions assembled, and they are hereby required to levy, by assessment to be made on each and every inhabitant householder in the said District, in the same manner and form as by law any assessment may now or hereafter be levied for any public purpose in the said District, an additional rate of one-third of a penny in the pound, until the sum hereinafter authorised to be borrowed for defraying the expenses of erecting the said Gaol, and all interest thereon, shall be fully discharged.

Assessment authorised, to defray the charge of erecting the new Gaol.

II. *And be it further enacted by the authority aforesaid,* That the said Justices of the Peace shall have power to raise, by loan, at a rate of interest not greater than six per cent per annum, from such person or persons, bodies politic or corporate, as may be willing to lend the same on the credit of the said District, a sum not exceeding four thousand pounds, to be applied for the erection of the said Gaol, and a Gaol Yard, and not otherwise; and that the bond or agreement under the hand and seal of the Treasurer of the said District, to be given for the repayment of such loan, under the authority of this Act, shall constitute a debt and charge binding upon the Treasury of the said District, but not upon such Treasurer in his individual and personal capacity; and that the Treasurer of the said District, for the time being, shall annually, until the loan so raised, with the interest accruing thereon, shall be paid and discharged, apply towards the payment of the same not less than three hundred and fifty pounds, from and out of the rates and assessments of the said District.

Magistrates authorised to raise money by loan, to be charged on Treasury of District.

III. *And be it further enacted by the authority aforesaid,* That when the County of Huron shall have provided herself with a sufficient Gaol and Court House, in conformity with a bill entitled, “An Act to erect the County of Huron, and certain other territory adjacent thereunto, into a separate District, by the name of the District of Huron,” and so soon as the said County of Huron shall become a District in conformity with the provisions of the aforesaid Act, all monies that shall or may have been raised levied and collected from such County, for the purpose of erecting the Gaol at London, shall be repaid by the District of London forthwith into the hands of the Treasurer of the District of Huron, to be applied to the general purposes of such new District as its Magistrates may direct.

When County of Huron erected into new District, assessments levied in it for defraying charge of erecting Gaol in London to be repaid.

## CHAP. XXXVIII.

*AN ACT to authorise the erection of a Gaol and Court-house at Brockville, in the District of Johnstown.*

[Passed 6th March, 1838.]

Preamble.

WHEREAS it has been made to appear, by a presentment of the Grand Jury at the late Assizes for the District of Johnstown, and at a Court of General Quarter Sessions for the said District, that the Gaol and Court-house of the said District is in a delapidated and insecure state, and the Justices of the Peace for the said District have by petition prayed for authority to erect a new and a substantial stone building for the use of the said District: *Be it therefore enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and Assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, 'That the Justices of the Peace in and for the said District of Johnstown, in General Quarter Sessions assembled, either in the next or subsequent Court to be holden after the passing of this Act, be authorised, and they are hereby authorised by such means as to them shall seem proper, to procure plans and elevations of a Gaol and Court-house, or either or both of them, together with estimates of the expense of building the same: *Provided always*, that so far as respects the proposed new Gaol, proceedings of the Justices of the Peace and all measures in regard to the said Gaol, shall be subject to the provisions of a certain Act of the Parliament of this Province, passed during the present Session, entitled, "An Act to regulate the future erection of Gaols in this Province."

Justices of the Peace in Quarter Sessions authorised to obtain plans and estimates for new Gaol and Court-house.

Authority given to two Justices, &c. to contract for building Gaol and Court House.

II. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for any two or more of Her Majesty's Justices of the Peace, assembled as aforesaid, together with any other person or persons by them appointed, and in the name and on the behalf of the inhabitants of the District to contract, and the said other person or persons are hereby authorised to contract, with any person who may be willing to build the said Gaol and Court-house, or either or both of them.

III. *And be it further enacted by the authority aforesaid,* That the said new Gaol when completed for the reception of Prisoners, and approved of by the board of Commissioners to be appointed in pursuance of the above recited Act, passed in the present Session of the Legislature, shall be and the same is hereby declared to be the common Gaol of the District of Johnstown.

New Gaol when completed and approved &c. to be the common Gaol of the District.

IV. *And be it further enacted by the authority aforesaid,* That the said Justices of the Peace in and for the District of Johnstown shall have power, and they are hereby authorised to raise by loan, at a rate of interest not exceeding six per centum per annum, from such person, or body politic or corporate, as may be willing to lend the same on the credit of the District, a sum not exceeding seven thousand five hundred pounds, to be applied to the purposes of this Act, and not otherwise; and that the Treasurer of the District for the time being shall annually, until the loan so raised, with the interest accruing thereon shall be paid and discharged, apply towards the payment of the same not less than five hundred pounds, from and out of the rates and assessments of the said District.

Magistrates authorised to contract for loan, &c.

V. *And be it further enacted by the authority aforesaid,* That in order to provide for the liquidation of the sum authorised to be raised by this Act, and the interest accruing thereon, it shall and may be lawful for the Justices of the Peace in and for the said District of Johnstown, in General Quarter Sessions assembled, and they are hereby authorised and required to levy by assessment, to be made on each and every inhabitant householder in the said District, in the same manner as by law any assessment may now or hereafter be levied for any public purpose in the said District, an additional rate of one penny in the pound, until the sum hereinbefore authorised to be borrowed for the purpose of erecting the said Gaol and Court-house, or either or both of them; and all interest thereon, shall be fully paid and discharged.

Magistrates authorised to levy additional assessment, to be applied in discharge of loan, &c.



## CHAP. XXXIX.

*AN ACT to authorise the levying an additional tax on the inhabitants of the County of Simcoe, for the purposes therein-mentioned.*

[Passed 6th March, 1838.]

Preamble.

**WHEREAS** it is desirable to provide funds for the speedy erection of a Gaol and Court-house at Barrie, in the County of Simcoe, in order that the said County may be declared a separate District, agreeably to an Act passed during the last Session of the Provincial Legislature: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That for the purpose above-mentioned, it shall and may be lawful, from and after the passing of this Act, for the Justices of the Peace for the Home District in Quarter Sessions assembled, and they are hereby required to levy by assessment, to be made on each and every inhabitant house-holder in the County of Simcoe aforesaid, in the same manner and form as by law any assessment may now or hereafter be levied for any public purpose in the said County, an additional rate, not exceeding one penny in the pound, until the sum hereinafter authorised to be borrowed for defraying the expenses of erecting the said Gaol and Court-house, and all interest thereon, shall be fully discharged.

Justices of the Peace for Home District authorised to levy additional assessment on inhabitants of County of Simcoe to defray expense of erecting Gaol and Court-house.

Justices of Peace for County of Simcoe authorised to raise by way of loan £4,000.

II. *And be it further enacted by the authority aforesaid*, That the Justices of the Peace for the County of Simcoe shall have power to raise by loan, at a rate of interest not exceeding six per cent per annum, from such person or persons, bodies politic or corporate, as may be willing to advance the same on the credit of the securities afforded by this and the before recited Act, a sum not exceeding the sum of four thousand pounds, Provincial Currency, to be applied in the erection of the said Gaol and Court house, and not otherwise.

III. *And be it further enacted by the authority aforesaid*, That the monies raised by the authority of this Act shall be paid over by the Trea-

surer of the Home District to the Treasurer appointed by the Magistrates of the County of Simcoe, to be expended by the Justices of the Peace for the said County of Simcoe in the manner prescribed in the Act passed during the last Session, entitled, "An Act to authorise the erection of the County of Simcoe into a separate District, by the name of the District of Simcoe"; *Provided always*, that the sum raised under this and the above recited Act shall not exceed in the whole the sum of four thousand pounds.

Monies levied to be paid by Treasurer of Home District to Treasurer of County of Simcoe, &c.

## CHAP. XL.

*AN ACT to exempt the District of Hastings from the operation of a Bill passed during the present Session, to regulate the future erection of Gaols in this Province.*

[Passed 6th March, 1838.]

**WHEREAS** it is inexpedient that the powers given to certain Commissioners and Judges of the Court of King's Bench, by an Act passed in the first year of Her present Majesty's reign, entitled, "An Act to regulate the future erection of Gaols in this Province," should apply to the County of Hastings: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That so much of the said recited Act as can, by any construction, apply to the Court House and Gaol now erecting in the County of Hastings, be and the same is hereby repealed.

Preamble.

Act referred to not to apply to Court-house and Gaol erecting in County of Hastings.

CHAP.

## CHAP. XLI.

*AN ACT to authorise the Surveyor of Highways in and for the County of Wentworth, to convey to Allan N. MacNab, Esquire, certain allowances for Road in the Township of Barton, in the District of Gore.*

[Passed 6th March, 1838.]

Preamble.

**W**HEREAS by a petition presented at a General Court of Quarter Sessions of the Peace in and for the District of Gore, held upon the nineteenth day of October, in the year of our Lord one thousand eight hundred and thirty-six, signed by William Applegarth, John Applegarth, William J. Kerr, Philo D. Bates, Andrew Gage, A. M. Chisholm, John Chisholm, George Middleton, Henry Beasley, Samuel Mills, James Mills, George H. Ainsley, Thomas Pinnett, John Morris and C. Reynolds, Freeholders in the County of Wentworth, in the said District, and addressed to John T. Law, Esquire, Surveyor of Highways for the said County of Wentworth, in the said District, it did appear that the road leading from the Town of Hamilton, in the said District of Gore, to the Battery, opposite to the residence of Allan Napier MacNab, commencing at the line of Lots numbers seventeen and eighteen, in the second Concession of the Township of Barton, in the County and District aforesaid, was not of sufficient width, being only thirty feet wide, and requesting that the said Surveyor of Highways would report thereupon to the Court of Quarter Sessions aforesaid: *And whereas*, the said Surveyor did, in compliance with the said petition, report to the said Court of Quarter Sessions that the said road was insufficient, whereupon the said Court ordered that the said road should be widened to increase the facility of travelling thereupon: *And whereas*, in compliance with the said order of the said Court, so much of the lands of the said Allan Napier MacNab as were sufficient to complete the full and necessary width thereof was taken: *And whereas*, the original allowances for road being the first, otherwise named second Concession road of Barton aforesaid, and the road allowance between Lots number eighteen and nineteen, in the said Concession, and part of the road allowance between Lots number eighteen and nineteen, in the second, otherwise named third Concession of Barton aforesaid, have become disused, by reason of the improvement of the first-mentioned road as aforesaid: *And whereas*, it is fit and proper that the said disused roads should be conveyed to the said Allan Napier MacNab, he not having received any reimbursement for the lands so taken as aforesaid: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assem-

bly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That it shall and may be lawful for the Surveyor of Highways in and for the County of Wentworth, in the District of Gore, and he is hereby authorised and required forthwith, to grant and convey unto the said Allan Napier MacNab, his heirs and assigns for ever, all and so much of the road allowance, being the first, otherwise called the second Concession road of Barton aforesaid, commencing as follows, that is to say—At the south-west angle of Lot number seventeen of the broken front on Burlington Bay, thence north seventy-two degrees west, eighty chains more or less, to the Gore of Ancaster, in the said District of Gore; also all and so much of the road allowance between Lots numbers eighteen and nineteen, in the said first, otherwise named second Concession, and part of the road allowance between Lots number eighteen and nineteen, in the second, otherwise named third Concession of the said Township of Barton, commencing as follows, that is to say—Where the north side of the present survey of the road over Burlington Heights, in the said District, intersects the said road allowance between Lots numbers eighteen and nineteen, in the said second, otherwise third Concession of Barton aforesaid; thence north eighteen degrees east, twelve chains, more or less, to the waters of Burlington Bay; which said conveyance shall vest in the said Allan Napier MacNab, his heirs and assigns, all the right and title in the land of which the said allowances for road are composed, as fully and to all intents and purposes as if the same had been originally granted to the said Allan Napier MacNab, his heirs and assigns, by Patent from the Crown.

Surveyor of Highways  
authorised to convey  
certain portion of road.

II. *And be it further enacted by the authority aforesaid,* That so soon as the said conveyance shall be made, the land hereinbefore mentioned, and ordered to be taken by the Court of General Quarter Sessions, as well as the road leading from the Dundas Road to Burlington Bay, between Lots number seventeen and eighteen, and the new road laid out on the lands of the said Allan Napier MacNab, from the Battery to the reservation on Burlington Heights, shall be deemed and taken to be public highways, as fully and effectually as if the same had been laid out as roads in the original survey of the Township of Barton.

Portion of ground de-  
scribed to be henceforth  
deemed and taken as  
public highway.

## CHAP. XLII.

*AN ACT to authorise the admission of John Prince, Esquire, to practise as a Barrister and Attorney within this Province.*

[Passed 6th March, 1838.]

Preamble.

**W**HEREAS an Act was passed in the second year of the reign of His late Majesty King George the Fourth, entitled, “An Act to repeal part of and amend an Act passed in the thirty-seventh year of His late Majesty’s reign, entitled, ‘An Act for the better regulating the practice of the Law, and to extend the provisions of the same’”: *And whereas*, it is among other things enacted, that from and after the passing of the said Act, no person shall be admitted by the Court of King’s Bench to practise as an Attorney in this Province, unless upon an actual service under articles for five years with some practising Attorney in this Province: *And whereas*, John Prince, Esquire, late of Cheltenham, in the County of Gloucester, in England, a Solicitor and Attorney of Her Majesty’s Courts of Law and Equity, has been for some years a resident inhabitant of this Province, and during the late invasion of the Western District, rendered very zealous and effective service in its defence: *And whereas*, it is desirable that the Legislature should mark their approbation of the conduct of the said John Prince, by enabling him to practise in his profession in this Province, without incurring the delay which is required by the law in that behalf: *Be it therefore enacted*, by the Queen’s most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,” and by the authority of the same, That any thing in the said Act to the contrary notwithstanding, the Court of King’s Bench may, at its discretion, admit the said John Prince to practise as an Attorney in this Province.

Court of King’s Bench authorised to admit John Prince, to practise as an Attorney.

Law Society in its discretion to receive the said John Prince and introduce him as a Barrister, who being received at the bar of the Court of King’s Bench, may thenceforth practise as a Barrister.

**II.** *And be it further enacted by the authority aforesaid*, That the Law Society may, at its discretion, receive into the same and introduce to the Court of King’s Bench, as a Barrister, the said John Prince; and thereupon being received at the Bar of the Court of King’s Bench, he shall thenceforth be authorised to practise the profession of the Law, as fully to

all intents and purposes, as any Barrister now practises the same in this Province.

## CHAP. XLIII.

*AN ACT authorising the payment of Pensions to certain Militia during the late War with the United States of America, under certain restrictions.*

[Passed 6th March, 1838.]

**W**HEREAS John Ryan, of the Township of Toronto, in the Home District; Peter Lampman, of Niagara, in the Niagara District; and Adam Stull, of Grantham, in the Niagara District, have petitioned the Legislature, praying to be restored to the Militia Pension List of this Province: *And whereas*, the said John Ryan, Peter Lampman, and Adam Stull, were wounded during the late war with the United States of America, and enjoyed a Pension up to the year one thousand eight hundred and twenty-one, and it is expedient that they should be restored to the Militia Pension List of this Province: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That it shall and may be lawful for the Lieutenant Governor of this Province, upon the said John Ryan, Peter Lampman, and Adam Stull, respectively, producing the certificate of the Board authorised to be established by an Act passed in the first Session of the present Parliament, entitled, "An Act authorising the payment of Pensions to Militiamen disabled during the late war with the United States of America," under certain restrictions to cause the name of the said John Ryan, Peter Lampman, and Adam Stull, or either of them, to be restored to the Militia Pension List of this Province; and the said John Ryan, Peter Lampman, and Adam Stull, or either of them, on their or either of them being restored, shall from thenceforth be entitled to receive a Pension of Twenty Pounds per annum, in the same manner as other Militia Pensioners.

Preamble.

Lieutenant Governor authorised to restore the names of John Ryan, Peter Lampman, and Adam Stull, to pension list, under certain restrictions.

## CHAP. XLIV.

*AN ACT to provide Pensions for the Widows and Children of Militiamen killed during the late Rebellion, and for other purposes therein mentioned.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN :

**W**HEREAS it is deemed expedient to provide means for the support of the Widows and Children of such Officers, Non-commissioned Officers and Privates of the Militia, and other Provincial Corps and Detachments raised in this Province, as have been or may hereafter be killed on service, or die of disease contracted on service: May it therefore please Your Majesty that it may be enacted, *And be it enacted* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and Assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That if any Officer, Non-commissioned Officer, Private Militiaman or Teamster, of any such Corps or Detachment shall in any engagement, or by any accident or casualty which hath occurred or may hereafter occur while performing any duty on actual service be killed, or who hath died, or shall die of any disease contracted on service during the period of such service, or within twelve months thereafter, and leave a widow, child or children lawfully begotten, his widow shall be entitled to receive during her widowhood, and in case of the death of such widow, then the eldest child or guardian, for the use of such children of such Officer, Non-commissioned Officer, or Private Militiaman, until the youngest thereof shall attain the age of sixteen years, an annuity of Twenty Pounds, of lawful money of this Province.

**II.** *And be it further enacted by the authority aforesaid,* That the said several annuities herein granted shall be paid by the Receiver General of this Province, out of any monies in his hands, subject to the disposition of the Parliament of this Province.

**III.** *Provided always, and be it further enacted by the authority aforesaid,* That each person whose name may hereafter be inserted on the

Preamble

Widows and children of Militiamen who have or may die on actual service to receive a pension.

Pension to be paid by Receiver General.

Affidavit to be made by Widow;

Pension List of this Province, under this Act, shall, as soon after the first day of January and the first day of July in each and every year, as may be convenient, transmit to the Receiver General an affidavit, as the case may require, in the following forms: "I, G. H. do solemnly swear, that I am, (or was) the widow of A. B. who was killed in action with the Enemy:" "I, G. H. do solemnly swear, that I am (or was) the widow of A. B. who died from disease contracted whilst on service:" "I, A. B. (or as the case may be) Guardian, Executor or Administrator, do solemnly swear, that I verily believe that J. H. is the son or daughter of the said ——— who was killed in action with the Enemy; or who died from wounds received in action; or who died from disease contracted whilst on service; and that J. H. is not sixteen years of age, (as the case may be):" "I, C. D. Senior Officer of the ——— Regiment of ——— Militia, (as the case may be) do hereby certify, that A. B. was killed in action on the ——— day of ———; or wounded, and died in consequence; or died of disease contracted on service; and that A. B. is the widow of C. D.;" which affidavit and certificate, with the receipt of such Pensioner, Guardian, Agent, Executors or Administrators, shall be taken and allowed to be a sufficient voucher for the payment of such Pension as aforesaid.

Guardian or Executor or Administrator of deceased Militiaman;

Certificate of Senior Officer of death of Militiaman.

IV. *And be it further enacted by the authority aforesaid,* That nothing in this Act contained shall extend, or be construed to extend to provide Pensions for any person or persons otherwise provided for by any other Act, anything in this Act contained to the contrary notwithstanding.

Not to extend to provide pension for person otherwise provided for by any other Act.

V. *And be it further enacted by the authority aforesaid,* That every person who shall have been, or shall hereafter be wounded, or in any way disabled, whilst in Her Majesty's service, may claim, and be entitled to receive a Pension of Twenty Pounds per annum, under the provisions of, and as if he had been named in a certain Act of the Legislature of this Province, passed during the first Session of the present Parliament, entitled, "An Act authorising the payment of Pensions to Militia-men disabled during the late War with the United States of America, under certain restrictions."

Provision for payment of wounded or disabled Militiamen.



## CHAP. XLV.

*AN ACT granting a retired allowance to Colonel Coffin, Adjutant General of Militia.*

[Passed 6th March, 1838.]

Preamble.

**W**HEREAS Nathaniel Coffin, Esquire, Adjutant General in this Province, has by his petition to the Legislature prayed, that owing to the infirmities of advanced age and impaired health, an annual allowance may be made to him during the remainder of his life, upon his retiring from the Service: *And whereas* it is just towards the said Nathaniel Coffin, on account of his long and faithful services, that an annual allowance should be made to him: *And whereas* it is expedient and necessary, and the public Service requires that an active and efficient person should hold the said Office: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and out of the rates and duties now raised, levied and collected, or hereafter to be raised, levied and collected, and in the hands of the Receiver General unappropriated, there be granted to Her Majesty, Her Heirs and Successors, the sum of Three Hundred Pounds annually, to provide for the payment of a retired allowance for Nathaniel Coffin, Esquire, Adjutant General of Militia as aforesaid, so soon as he shall retire from the said Service.

Pension of £300 granted.

CHAP.

## CHAP. XLVI.

*AN ACT granting a Pension to Sheppard McCormick.*

[Passed 6th March, 1838.]

• MOST GRACIOUS SOVEREIGN :

WHEREAS Sheppard McCormick, Esquire, a retired Lieutenant of the Royal Navy, received several severe wounds in action at the capture and destruction of the Piratical Steamer “Caroline,” in an attempt to invade this Province by a lawless banditti, by which he is disabled, and it is just and right that he should receive a Pension during such period as he shall be so disabled by said wounds; We, Your Majesty’s dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, do therefore humbly beseech Your Majesty that it may be enacted, *And be it enacted*, by the Queen’s most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,” and by the authority of the same, That out of the rates and duties already raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and in the hands of the Receiver-General, unappropriated, there be granted annually to Her Majesty, so long as the disability of the said Sheppard McCormick from the said wounds shall continue equal to the loss of a limb, the sum of One Hundred Pounds, as a Pension to the said Sheppard McCormick, to commence and become payable from the twenty-ninth day of December last past.

Preamble.

Pension of £100 granted.

## CHAP. XLVII.

*AN ACT to grant a Pension to the Widow and Children of the late Colonel Robert Moodie.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN :

**W**HEREAS the late Colonel Robert Moody, late of the 104th Regiment of Foot, was inhumanly murdered while on his way to the seat of Government to give information of the late unnatural Rebellion : *And whereas* his devoted loyalty to Your Majesty deserves to be gratefully recompensed by the inhabitants of this Province, by providing means for the support of the Widow and Children of that lamented Officer : We, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada in Provincial Parliament assembled, do therefore most humbly beseech Your Majesty that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and out of the rates and duties now raised, levied and collected, or hereafter to be raised, levied and collected, and in the hands of the Receiver General, and unappropriated, there be granted to Her Majesty, Her Heirs and Successors, the sum of One Hundred Pounds, annually, to provide for the payment of a Pension to the Widow of the late Colonel Robert Moody aforesaid, to commence on the fourth day of December last, and to be payable half yearly to the said Widow, and in case of her death or marriage then to the eldest child or guardian thereof lawfully appointed, for the use of the children of the said Colonel Robert Moody, until the youngest thereof shall have attained the age of twenty-one years.

Preamble.

Pension of £100 granted.

## CHAP. XLVIII.

*AN ACT to provide a Pension to the Widows of the late Captains James Macnabb, and William Church.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN :

**W**HEREAS Captain James Macnabb, of the first Regiment of Hastings Militia, and Captain William Church, of the third Regiment of said Hastings Militia, have during the recent Rebellion, while on actual Service, by accidents lost their lives, and it is but in accordance with humanity, and a sensibility of the loss sustained by the families of those Officers, that Pensions be provided for their Widows: We, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada in Provincial Parliament assembled, do therefore most humbly beseech Your Majesty that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America," and to make further provision for the Government of the said Province," and by the authority of the same, That the Widows of the said late Captains James Macnabb, and William Church, of the Hastings Militia aforesaid, shall be entitled to receive Pensions of Fifty Pounds each per annum, during their widowhood.

II. *And be it further enacted by the authority aforesaid*, That the said Pensions herein granted shall be paid by the Receiver General of this Province, out of any monies in his hands subject to the disposition of the Parliament of the same, in discharge of any warrant or warrants issued by the Lieutenant Governor of this Province for that purpose.

III. *And be it further enacted by the authority aforesaid*, That the Pensions granted by this Act shall commence and become payable from the sixteenth day of December last past.

Preamble.

Pensions of £50 each granted.

To be paid by Receiver General.

Payable from sixteenth of December last.

## CHAP. XLIX.

*AN ACT granting a sum of money to William Hust, as a compensation for loss of time, in consequence of a wound received by him while engaged in capturing a band of Rebels.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN:

**WHEREAS** it is expedient and proper, that William Hust should be rewarded for his gallant conduct in capturing a band of Rebels, and compensated for loss of time and wounds received while engaged in so doing: We therefore beseech Your Majesty that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That out of the rates and duties already raised, levied and collected, or hereafter to be raised, levied and collected, and in the hands of the Receiver General, and unappropriated, there be granted to Her Majesty the sum of twenty-five pounds, to enable Her Majesty to reward the said William Hust, for his gallant conduct, loss of time and sufferings aforesaid.

Preamble.

£25 granted.

CHAP.

## CHAP. L.

*AN ACT to authorise the Receiver General to raise a sum of money by way of loan, on the security of the Provincial Stock in the Bank of Upper Canada.*

[Passed 6th March, 1838.]

**W**HEREAS there is reason to apprehend, that from the disturbed state of Lower Canada, the Revenue arising from duties levied at the Port of Quebec, on importations from England, may fall short of the ordinary amount, and that in consequence thereof the Receiver General may find it difficult to meet the demands on this Province, for interest due on the public debt thereof, unless some temporary provision is made in that behalf: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, it shall and may be lawful for the Lieutenant Governor of this Province, by and with the advice and consent of the Executive Council, to authorise Her Majesty's Receiver General of this Province to raise by way of loan, such a sum on the security of the Stock owned and held by this Province in the Bank of Upper Canada, as may be necessary to meet any such deficiency.

Preamble.

Loan authorised to be raised by Lieutenant Governor.

## CHAP. LI.

*AN ACT to authorise a Loan of Money in London, and for other purposes therein-mentioned.*

[Passed 6th March, 1838.]

Preamble.

**WHEREAS** it would tend greatly to the interests of this Province were a Loan to be effected in England, to the amount of not more than one million of Pounds Sterling, at a lower rate of interest than is now paid upon sums raised upon Debentures, thereby enabling this Province to redeem those Debentures: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That it shall and may be lawful for the Lieutenant Governor of this Province, by and with the advice and consent of the Executive Council, to authorise Her Majesty's Receiver General to issue Debentures to the amount of one million of Pounds Sterling, in such sums as he may deem advisable, at an interest of three per centum per annum, payable in twenty, twenty-five, thirty, thirty-five, forty, forty-five and fifty years; such interest payable half yearly in London.

Loan of £1,000,000 Sterling authorized, at interest of 3 per cent. payable at stated periods.

Interest to be paid by Receiver General.

*II. And be it further enacted by the authority aforesaid*, That the interest accruing upon the sums raised under the authority of this Act shall be paid by Her Majesty's Receiver General, out of the general revenues of this Province, at such yearly or half yearly periods as may in that behalf be required, and in discharge of such warrants as may be issued by the Lieutenant Governor of this Province for that purpose.

Debentures for raising loan to be transmitted to Her Majesty's Government, to be sold for benefit of Province.

*III. And be it further enacted by the authority aforesaid*, That the Lieutenant Governor shall direct the said Debentures to be transmitted to Her Majesty's Government, to be sold for the benefit of this Province in such manner as they may please to direct, and for the best price that can be obtained for the same.

IV. *And be it further enacted by the authority aforesaid, That so soon as any sum or sums shall be received by the Lords Commissioners of Her Majesty's Treasury, upon any loan authorised to be raised under this Act, such sum or sums shall be applied towards redeeming the outstanding Debentures of the Government of this Province, which may then be due, to the holders thereof, or which they may purchase, and for no other purpose whatever.*

Sums raised by loan to be applied towards redeeming outstanding debts.

## CHAP. LII.

*AN ACT to prevent the Receiver General from advancing any further sum on loans for certain Public Works, until the interest is paid thereon.*

[Passed 6th March, 1838.]

**WHEREAS** it is necessary to provide against the accumulation of arrearages of interest for monies advanced by this Province for certain improvements therein: *Be it therefore enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, no further sum or sums of money shall be paid and advanced by Her Majesty's Receiver General for the purposes of carrying on or constructing any public work or improvement, authorised to be constructed by any Act or Acts of the Legislature of this Province, for which any loan is authorised to be raised and advanced, and security to be taken for the repayment of the same, together with the interest, until all interest now due for any sum or sums heretofore advanced by this Province for the construction of the same be paid, nor until six months interest be paid on any sum or sums to be hereafter advanced.

Preamble.

Receiver General restrained from advancing further sums for public works, until arrears of interest on former advances is paid.



## CHAP. LIII.

### *AN ACT to make further provision for the Support and Regulation of the Provincial Penitentiary.*

[Passed 6th March, 1838.]

Preamble.

**WHEREAS** it is expedient to proceed with the completion of the Provincial Penitentiary, so far as may be requisite for the safe keeping of the convicts, and for the accomodation of the officers and the due enforcement of discipline; and also to provide funds for the clothing, lodging and maintenance of the convicts, and for the payment of the officers, watchmen, and other persons employed in the guarding and government and police of the said Penitentiary: May it therefore please Your Majesty that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That it shall and may be lawful to and for Her Majesty's Receiver General for this Province, and he is hereby required, from and out of the rates and duties now raised, levied and collected, or hereafter to be raised, levied and collected, and remaining in the hands of the said Receiver General, unappropriated, to discharge such warrant or warrants as shall from time to time be issued by the Lieutenant Governor in favour of the Board of Inspectors of the said Penitentiary, by whom the money so obtained on such warrant and warrants shall be applied in completing the Hospital, Mess-room, Kitchen and Offices therein, as may be found immediately necessary; in clothing, feeding, lodging, and furnishing employment for the convicts; and in paying the salaries and wages of the officers, keepers and watchmen of the said Penitentiary.

Advance of money to be made for purposes mentioned.

Not to exceed £5000.

II. *Provided always, and be it further enacted by the authority aforesaid*, That the said monies shall not exceed in amount Five Thousand Pounds.

III. *And be it further enacted by the authority aforesaid, That an* An account in detail, of expenditure, to be submitted to Legislature. account in detail of the expenditure which may be incurred under this Act, shall be submitted by the Lieutenant Governor at the next Session of the Legislature.

IV. *And be it further enacted by the authority aforesaid, That the twenty* 21st section of former Act, authorising Servants to Warden and Deputy, rescinded. first section of an Act passed in the fourth year of His late Majesty's reign, entitled, "An Act to provide for the maintenance and government of the Provincial Penitentiary, erected near Kingston, in the Midland District," so far as relates to the Warden and his Deputy being furnished with Servants from among the convicts, be and the same is hereby repealed.

## CHAP. LIV.

*AN ACT to enable Her Majesty to remunerate Henry Smith, Esquire, Warden of the Provincial Penitentiary, for past services performed and disbursements made by him, and to increase the Salary of that Officer.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN:

**W**HEREAS it appears by the petition of Henry Smith, Esquire, Warden Preamble. of the Provincial Penitentiary, that the sum of Two Hundred and Eight Pounds, Fifteen Shillings and Seven Pence, is due to him for services performed and disbursements made by him, previously to the passing of the Act authorising a Salary to that Officer, it is therefore expedient to grant to Your Majesty the said sum of two hundred and eight Pounds, fifteen Shillings and seven Pence, to enable Your Majesty to pay the like sum to the said Henry Smith: *And whereas* the Salary of the said Warden is insufficient adequately to remunerate him for the performance of the arduous duties of his office, it is also expedient to grant to Your Majesty the further sum of one hundred Pounds, annually, for the purpose of augmenting the said Salary to three hundred Pounds per annum: We, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada in Provincial Parliament assembled, therefore humbly beseech Your Majesty that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making

more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That out of the rates and duties now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and subject to the disposition of the Legislature thereof, there be granted to Her Majesty the sum of Two Hundred and Eight Pounds, Fifteen Shillings and Seven Pence, to enable Her Majesty to pay the like sum to Henry Smith, Esquire, Warden of the Provincial Penitentiary, to remunerate him for services performed and disbursements made by him, previously to the passing of the Act granting a Salary to that Officer.

£208 15s. 7d. granted, to remunerate Henry Smith, for services performed.

II. *And be it further enacted by the authority aforesaid,* That so much of the twenty-sixth clause of an Act passed in the fourth year of the reign of our late Sovereign Lord King William the Fourth, as grants a salary of Two Hundred Pounds per annum to the Warden of the Provincial Penitentiary, be and the same is hereby repealed.

So much of 26th clause of Act 4th Wm. IV. as grants salary of £200 to Warden of Penitentiary, repealed.

III. *And be it further enacted by the authority aforesaid,* That the Salary of the said Warden shall from and after the passing of this Act be Three Hundred Pounds per annum; and that there be granted to Her Majesty, out of the rates and duties as aforesaid, the sum of Three Hundred Pounds annually, to enable Her Majesty to augment the Salary of the said Warden to Three Hundred Pounds per annum.

Future salary of Warden £300 per annum.

## CHAP. LV.

*AN ACT to afford relief to the Sick and Destitute Poor of the City of Toronto.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN :

**WHEREAS** the high price of provisions, and the increased number of paupers, arising from various causes, has rendered the efforts of private charity insufficient for the relief of the sick and destitute poor in the City of Toronto: *And whereas* it is therefore expedient to afford some public aid: May it therefore please Your Majesty, that it may be enacted, *And be it enacted,* by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly

Preamble.

of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,” and by the authority of the same, That from and out of the rates, duties and assessments, now raised, levied and collected, or hereafter to be raised, levied and collected, and remaining in the hands of the Receiver General, unappropriated, there be granted to Her Majesty the sum of three hundred and fifty pounds, to enable Her Majesty to advance the like sum in aid of the means already adopted, during this season, for the relief of the poor and distressed of the City of Toronto. £350 granted.

## CHAP. LVI.

*AN ACT granting to Her Majesty a sum of money for the erection of a Dwelling-house, for the Keeper of the Point Peter Light-house.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN:

**WHEREAS** it is expedient to grant a sum of money for the purpose of erecting a dwelling-house for the Keeper of the Light-house on Point Peter, in the District of Prince Edward: Preamble. May it therefore please Your Majesty, that it may be enacted, *And be it enacted*, by the Queen’s most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, “An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,” and by the authority of the same, That out of the rates and duties now raised, levied and collected, or hereafter to be raised, levied and collected, and in the hands of the Receiver General, and unappropriated, there be granted to Her Majesty the sum of sixty pounds, to be appropriated and applied for the purpose of erecting a dwelling-house for the Keeper of the Light-House on Point Peter, in the District of Prince Edward. £60 granted.

Governor to appoint person to superintend construction of House.

II. *And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Lieutenant Governor to appoint some fit and discreet person a Commissioner to superintend the erection of the said dwelling-house.*

## CHAP. LVII.

*AN ACT granting a certain sum of money to Her Majesty, for the purposes therein-mentioned.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN:

Preamble.

WHEREAS it is expedient and necessary to grant a further sum of money for the completion of the improvement of the River Saint Lawrence: May it therefore please Your Majesty, that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That it shall and may be lawful for the Lieutenant Governor of this Province, to authorise and direct Her Majesty's Receiver General of this Province to raise, by loan, from any person or persons, bodies corporate or politic, who may be willing to advance the same, upon the credit of the Government Bills or Debentures authorised to be issued under this Act, a sum of money not exceeding eighty thousand pounds, at a rate of interest not exceeding five per cent per annum, payable half-yearly in London.

Loan of £80,000 authorized to be levied, interest to be paid in London, for completion of improvement of River St. Lawrence.

Provisions of former Act, made applicable to the present.

II. *And be it further enacted by the authority aforesaid, That all and every the general provisions contained in an Act of the Parliament of this Province, entitled, "An Act granting to His Majesty a sum of money, to be raised by Debenture, for the improvement of the navigation of the River Saint Lawrence," shall apply to and be in force with respect to this present Act.*

## CHAP. LVIII.

*AN ACT granting to Her Majesty a certain sum of money, for the purposes therein-mentioned.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN :

**W**HEREAS it is expedient and just that the sum of Nine Pounds, Ten Shillings, should be paid to John Farrell, of Brockville, for provisions furnished by him to destitute Emigrants, in the year one thousand eight hundred and thirty-two, : We therefore beseech Your Majesty that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province," and by the authority of the same, That there be granted to Her Majesty, out of the rates and duties already raised, levied and collected, or hereafter to be raised, levied and collected, and in the hands of the Receiver General of this Province, and unappropriated, the Sum of Nine Pounds, Ten Shillings, to enable Her Majesty to pay the said sum to the said John Farrell.

Preamble.

£9 10s. authorised to be paid John Farrell.

CHAP.

## CHAP. LIX.

*AN ACT authorising the payment of certain sums of money to sundry persons, for expenses incurred in the erection and completion of the Public Buildings.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN :

Preamble.

**W**HEREAS it is expedient to grant to Your Majesty the sum of Ninety-one Pounds, Currency, to pay up certain persons their just demands for labour performed, materials furnished and monies paid, in the erection of Public Buildings at this place: May it therefore please Your Majesty that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, consituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That out of the rates and dues now raised, levied and collected, or hereafter to be raised, levied and collected, and in the hands of the Receiver General of this Province, and unappropriated, there be granted to Her Majesty the sum of Ninety-one Pounds, to be appropriated in paying the following sums of money to the persons undermentioned—To James Fitz Gibbon, Esquire, one of the Commissioners for the Parliament Buildings, the sum of Nine Pounds, being a balance due to him; to Messieurs Ewart and Parke, for superintending and measuring the work of the Public Buildings, the sum of Thirty Pounds; to Christopher R. Denham, for labour and materials furnished for the same, the sum of Twenty-seven Pounds; and to John G. Howard, Architect, for services rendered in the erection of the Public Buildings, the sum of Twenty-five Pounds.

£91, granted to James FitzGibbon, Esquire, Ewart and Parke, Ch'r. R. Denham, and John G. Howard.

CHAP.

## CHAP. LX.

*AN ACT granting a sum of Money for the support of Common Schools, for the year one thousand eight hundred and thirty-eight.*

[Passed 6th March, 1838.]

**MOST GRACIOUS SOVEREIGN:**

**WHEREAS** it is expedient to grant a sum of money for the support of Common Schools in the several Districts of this Province: Preamble. May it therefore please Your Majesty that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and out of the rates and duties now raised, levied and collected, or hereafter to be raised, levied and collected, to and for the uses of this Province, and in the hands of the Receiver General unappropriated, there be granted to Her Majesty, for the use of the Common Schools in this Province, for the year of our Lord one thousand eight hundred and thirty-eight, the sum of Five Thousand, Six Hundred and Fifty Pounds, in addition to the sums now appropriated by law, to be applied in the same way and manner, and in conjunction with the present sums granted by Act of Parliament; which said sum of Five Thousand, Six Hundred and Fifty Pounds, shall be apportioned among the several Districts of this Province as follows, that is to say:—

£5,650 granted in addition to sums now appropriated by law, to be distributed among the several Districts.

- To the Ottawa District, the sum of One Hundred Pounds.
- To the Eastern District, the sum of Five Hundred Pounds.
- To the Johnstown District, the sum of Five Hundred Pounds.
- To the Bathurst District, the sum of Five Hundred Pounds.
- To the Midland District, the sum of Five Hundred and Fifty Pounds.
- To the Prince Edward District, the sum of Two Hundred Pounds.
- To the Newcastle District, the sum of Five Hundred Pounds.
- To the Home District, the sum of Seven Hundred and Fifty Pounds.
- To the Gore District, the sum of Six Hundred Pounds.



To the Niagara District, the sum of Five Hundred Pounds.

To the London District, the sum of Four Hundred and Fifty Pounds.

To the Talbot District, the sum of One Hundred and Fifty Pounds.

To the Western District, the sum of Three Hundred and Fifty Pounds.

To be paid by Receiver General.

II. *And be it further enacted by the authority aforesaid*, That the said sum of Five Thousand, Six Hundred and Fifty Pounds, shall be paid by the Receiver General of this Province, in discharge of such warrants as may for that purpose be issued by the Lieutenant Governor.

No money to be paid by Board of Education to Teacher unless Trustees of School make it appear that provision has been made by them for payment of a sum double the amount allotted by Board of Education.

III. *And be it further enacted by the authority aforesaid*, That during the year aforesaid it shall not be lawful for the Board of Education, in any of the Districts of this Province, to pay to any Teacher of a Common School in this Province the annual allowance, unless the Trustees of the said School shall make it appear to the satisfaction of the Board of Education that they have made provision for his support, so as to secure him for his services in a sum equal at least to double the amount which may be allotted by the Board of Education from the public money, any thing to the contrary notwithstanding.

Additional allowance of £5 to Clerks of Board of Education.

IV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Board of Education in each District, to allow their Clerks of their respective Boards, in addition to the sums they are now by law authorised to receive, the further sum of Five Pounds for the present year.

## CHAP. LXI.

*AN ACT to make good certain monies advanced in compliance with the Address of the House of Assembly, during the First and Second Sessions of the present Parliament, for the Contingent Expenses of the Legislature of this Province.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN :

Preamble.

**W**HEREAS in pursuance of two several Addresses of Your Commons House of Assembly, during the First and Second Sessions of the present Provincial Parliament, to His Excellency Sir Francis Bond Head, Bart. K. C. H. Lieutenant Governor of Your Majesty's Province of Upper Ca-

nada, the sum of Thirteen Thousand, Eight Hundred and Sixty-four Pounds, Nineteen Shillings and Three Farthings, has been issued and advanced by Your Majesty, through Your said Lieutenant Governor, to the Clerks, and other Officers of the two Houses of Parliament, to enable them to pay the Contingent Expenses of the First and Second Sessions of the present Parliament: We, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, do therefore humbly beseech Your Majesty that it may be enacted, *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That out of the fund or funds subject to the disposition of the Parliament of this Province, now remaining in the hands of the Receiver General, and unappropriated, there shall be issued and applied the sum of Thirteen Thousand, Eight Hundred and Sixty-four Pounds, Nineteen Shillings and Three Farthings, to make good the said sum so issued and advanced as aforesaid. £13,864 19 03, granted.

## CHAP. LXII.

*AN ACT granting a certain sum of money to defray the expenses of the Civil Government, for the year One Thousand Eight Hundred and Thirty-eight, and for other purposes therein-mentioned.*

[Passed 6th March, 1838.]

MOST GRACIOUS SOVEREIGN:

**WHEREAS** it is expedient to provide for defraying the charges of the several services hereinafter mentioned, We, Your Majesty's dutiful and loyal Subjects, the Commons of Upper Canada, in Provincial Parliament assembled, therefore beseech Your Majesty that it may be enacted: *And be it enacted*, by the Queen's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, Preamble.

£15,910 15 3, granted.

“An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s reign, entitled, ‘An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,” and by the authority of the same, That from and out of the duties now raised, levied and collected, to and for the public uses of this Province, and in the hands of the Receiver General, and unappropriated, there be granted to Her Majesty, Her Heirs and Successors, the sum of Fifteen Thousand, Nine Hundred and Ten Pounds, Fifteen Shillings and Three-pence, which sum shall be applied in the payment of the following charges, viz :

*Government Office.*—Private Secretary of His Excellency the Lieutenant Governor, Two Hundred and Eight Pounds.  
Four Clerks, Eight Hundred and Fifty Pounds.  
Contingencies, Eleven Hundred and Ten Pounds.

*Executive Council Office.*—Four Clerks, Eight Hundred and Forty Pounds.  
Contingencies, One Hundred and Twenty-five Pounds.

*Receiver General’s Office.*—Three Clerks, Six Hundred and Seventy Pounds.  
Contingencies, Two Hundred Pounds.

*Secretary and Registrar’s Office.*—Deputy Secretary and Registrar, Three Hundred Pounds.  
One Clerk, Two Hundred Pounds.

*Inspector General’s Office.*—Two Clerks, Five Hundred Pounds.  
Contingencies, One Hundred and Fifty Pounds.

*Surveyor General’s Office.*—Senior Surveyor and Six Clerks, Fourteen Hundred and Eighty Pounds.  
Contingencies, One Hundred and Fifty Pounds.

*Adjutant General’s Office.*—One Clerk, One Hundred and Twenty-five Pounds.

*Printing Statutes, for the present Session.*—Seven Hundred Pounds.  
Arrears for the first and second Sessions of the present Parliament, One Thousand Six Hundred and Twenty-three Pounds, Six Shillings and Three-pence.

*Government Printing.*—Five Hundred and Twenty Pounds.

*Repairs of the Government House.*—One Hundred Pounds.

*Contingencies of Public Offices.*—Eight Hundred Pounds.

*Usher and Keeper of the Court of King's Bench.*—Forty Pounds.

*Casual and Extraordinary Expenses.*—Six Hundred Pounds.

*Her Majesty's Attorney General.*—The sum of Eight Hundred and Sixty-six Pounds, Thirteen Shillings and Four-pence, additional salary, in lieu of all fees, travelling expenses or contingencies, and in lieu of fees as an Officer of the Land Granting Department, and for such other sums as he may receive on Fiats, or other instruments.

*Her Majesty's Solicitor General.*—The sum of Three Hundred and Seventy-seven Pounds, Fifteen Shillings and Eight-pence, additional salary, in lieu of all fees, travelling expenses or contingencies.

*To James Stanton,* Clerk in the Executive Council Office, for arrears or deficiencies of salary for the year one thousand eight hundred and thirty-five—The sum of Thirty Pounds.

*To John Ford Maddock,* and *George Hamilton*—Twelve Pounds, Ten Shillings each, for deficiencies for the year one thousand eight hundred and thirty-seven, as Clerks in the Receiver General's Office.

The sum of Twenty-five Pounds, to defray the charges for rewards and expenses in the capturing, detention and trial, of State Prisoners, subsequent to the commencement of the Insurrection; and,

For the payment of other charges consequent thereon—The sum of Three Thousand Pounds; and,

The sum of Three Hundred and Twenty Pounds, to pay the Queen's Counsel for any services they may have been called upon to perform during the past year.

II. *And be it further enacted by the authority aforesaid,* That accounts, Accounts in detail to be rendered. in detail, of the expenditure of the sums hereinbefore granted, and of every part thereof, shall be laid before both branches of the Legislature, at the next ensuing Session thereof.

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