

ACTS  
OF THE *Geo. W. Stearns*  
GENERAL ASSEMBLY

OF  
HIS MAJESTY'S PROVINCE  
OF  
NEW-BRUNSWICK,

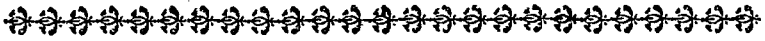
PASSED IN THE YEAR 1802.



SAINT JOHN:  
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MARKET SLIP, PRINTER TO THE KING'S  
MOST EXCELLENT MAJESTY.

1802.

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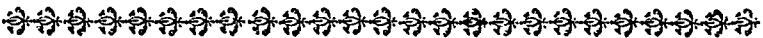


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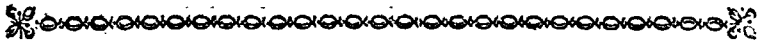
*Georgii III. Britanniarum Regis,*  
QUADRAGESIMO SECUNDO.

AT the GENERAL ASSEMBLY of the  
Province of NEW-BRUNSWICK, begun and  
holden at FREDERICTON on the NINTH Day  
of FEBRUARY, *Anno Domini*, 1796—

And from thence continued by several  
prorogations, to TUESDAY the Twenty-sixth  
Day of January, 1802 ; in the Forty-second  
Year of the Reign of our said Sovereign Lord  
GEORGE the THIRD, by the Grace of  
GOD, of the United Kingdom of Great-  
Britain and Ireland, KING, Defender of the  
Faith, &c. being the Sixth Seffion of the  
Third GENERAL ASSEMBLY of the said  
Province.







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# L A W S

OF THE

## PROVINCE OF NEW-BRUNSWICK.

C A P. I.

### AN ACT FOR REGULATING THE MILITIA.

Passed the 5th of MARCH, 1802.

**W**HEREAS a well regulated Militia will tend to the defence and security of His Majesty's subjects—

I. *Be it enacted, by the LIEUTENANT-GOVERNOR, Council and Assembly,* That every male Inhabitant within this Province, from Sixteen to Fifty years of age, shall be enrolled in one of the Independent Companies or Troops of Horse, or of the Regimental Companies of Foot, in the district where he dwells or resides, the extent of which district shall be determined by the Colonel or commanding Officer of the Militia of the County, and all Captains or commanding Officers of Independent and other Companies in the several Towns or Parishes within the Province, are hereby required to take due care to enroll in a Book or Register, to be kept by them for that purpose, all male Inhabitants from Sixteen to Fifty years of age; and that once in every year and oftener if thereunto required, each Captain or commanding officer of a Company shall give to his Colonel or in his absence to the next commanding officer of the Regiment, and such Colonel or next commanding officer of the Regiment and the Captains or commanding officers of unregimented Companies, shall give to the Captain-General or Commander in Chief for the time being, fair written Rolls of their respective Companies and Regiments.

Male Inhabitants from 16 to 50 years of Age to be enrolled.

Districts to be determined by the Colonel or commanding officer.

Captains of Companies to enroll all male Inhabitants from 16 to 50 years of age.

and report to the Colonel or commanding officer.

Colonels of Regts. or Capts. of unregimented Companies to report to the Captain-General.

II. *And be it enacted,* That the Militia shall be formed into Regiments by Counties.

Militia to be formed into Regiments.

III. *And be it also enacted,* That once in every year and not oftener, command shall be given by the Captain and in his absence by the next commanding officer of each and every Company,

Militia to be mustered once a year by Companies.

whereof Ten days notice to be given.

Company, that the Company under his orders, whether the same be an Independent or Regimental Company or Troop of Horse, shall meet at some convenient place within his district, and as near the centre thereof as conveniently may be, to be then and there mustered and exercised, whereof notice shall be given to the person or left at his place of abode, at least Ten days before the day of Muster.

Independent Companies to consist of Fifty men.

Commanding officer of Independent Companies to give to the Colonel a copy of his Muster-Roll.

In case of alarm to be, in the absence of the Capt. General, under the command of the Colonel.

IV. *And be it further enacted,* That no unregimented or Independent Company or Troop of Horse, shall consist of more than Fifty men, including non-commissioned Officers; and that every Captain or Officer commanding such Company, shall when thereunto requested, deliver a copy of his Muster-Roll to the Colonel or commanding Officer of the Regiment or Battalion of the County where such unregimented or Independent Company or Troop of Horse may be; and in case of a general alarm or Invasion, all such unregimented or Independent Companies or Troops of Horse shall in the absence of the Captain-General or Commander in Chief, be under the immediate command and direction of the Colonel, and in his absence the next commanding Officer of such Regiment or Battalion.

Persons enrolled to provide themselves with Arms, &c.

and appear once a year to be mustered &c.

Penalty for neglect,

how recovered and applied.

V. *And be it enacted,* That every person enrolled as aforesaid, shall provide himself with a good and sufficient Musket or Fuzee, Bayonet, Cartouch-box, one pound of Gun-powder and two pounds of sizeable Bullets, and being so provided shall, if required, once in every year, and not oftener, appear at the time and place appointed as aforesaid, to be mustered and exercised; and on failure thereof, shall forfeit and pay a Fine of *Ten shillings*, to be levied by distress and sale of the offender's goods, by the Captain's or commanding Officer's warrant, directed to a Serjeant or Corporal of the Company to which such person so offending belongs, who are respectively empowered to serve and execute the same, rendering the overplus, if any, after deducting the costs and charges of such distress and sale, to the offender; such Fine to be applied to defray the charges of purchasing Drums, Fifes and Colours, for the use of the said Company.

Person enrolled & appearing, who shall refuse or neglect to perform their duty, or shall depart without leave,

to forfeit 20s. to be recovered and applied as aforesaid.

Persons exempted from being enrolled.

VI. *And be it enacted,* That every person enrolled as aforesaid, and appearing under Arms, who shall refuse or neglect to perform such Military duty as shall be required of him, or shall on the day of Muster depart from the Company when under Arms, without leave from the commanding Officer, shall forfeit and pay a Fine of *Twenty shillings*, to be recovered and applied as aforesaid. ALWAYS PROVIDED, that the Members of His Majesty's Council, Members of the Assembly, Justices of the Peace, High Sheriffs, Coroners, and all persons who have held any Commission, Civil or Military, under His Majesty, Ministers of the Gospel, Physicians, Surgeons, Schoolmasters, one Miller to a Grift Mill, and one Ferryman to every public Ferry, shall be free from being enrolled in the Militia.



VII. *And be it enacted,* That no Militia commissioned Officer shall be liable or subject to serve as a Constable, any Law or usage to the contrary notwithstanding. Militia officers not liable to serve as Constables.

VIII. *And be it further enacted,* That in case of an Alarm, Invasion, Insurrection or Rebellion, every officer of Militia shall have full power and authority by virtue of this Act, and is hereby required forthwith to raise the Militia or Company under his command, and every commanding Officer of the Regiment in every County, upon any Alarm, or receiving Intelligence of any Insurrection, Invasion or Rebellion, shall forthwith dispatch an express to the Captain-General or Commander in Chief for the time being, notifying the danger and the strength and motions of the enemy, and the said commanding Officer is hereby empowered to impress Boats, Men and Horses, as the service may require; and shall call together the Militia under his command, and march them to such place or places within this Province as he shall judge most convenient for opposing the enemy; or to such place or places within the Province as shall be directed by the Captain-General or Commander in Chief for the time being; and every non-commissioned Officer or private Man, for his neglect of such duty shall forfeit and pay *Ten pounds*, to be recovered and applied as aforesaid, and that no distress for any Fine under this Act shall be made, or punishment inflicted, unless within Three Months next after the offence be committed. In case of Alarm, &c. Officers may raise the Militia. Commanding officer of the County to report to the Captain-General— and may impress Boats, &c. shall call together the Militia and march them to such place as he shall judge convenient, &c. Non-commissioned officers or privates neglecting such duty to forfeit Ten pounds— distress to be made within 3 months.

IX. *And be it further enacted,* That the notice of Muster required by this Act, and the levying of the several Fines herein before recited, shall be served and executed by a non-commissioned Officer under the Warrant of the commanding Officer of each Company; and in case of neglect or refusal, such non-commissioned Officer shall forfeit and pay a Fine of *Forty shillings*, to be recovered and applied as aforesaid. And in all cases where there are no effects whereon to levy the several Fines imposed by this Act, the said commanding Officer is hereby empowered by his Warrant to commit the person so offending to the next Gaol; there to be and remain not exceeding Ten days. Notice of Muster & levying of Fines, &c. to be by a Non-commissioned officer, who for neglect or refusal shall forfeit 40s.— for want of effects offender shall be committed to Gaol not exceeding ten days.

X. *And be it enacted,* That if any person be wounded or disabled upon any Invasion, Insurrection or Rebellion, he shall be taken care of and provided for, at the expence of the Province, during the time of such disability. Persons wounded, &c. to be provided for at the expence of the Province.

XI. *Provided always, and it is enacted,* That every person professing himself to be of the people called Quakers, and producing to the Captain or commanding Officer of the Company in whose district he resides, a Certificate signed by two or more persons professing themselves to be of the people called Quakers, that such person had been deemed and allowed one of the people called Quakers for the space of one whole year or more before the date of the Certificate, such person Quakers exempted from mustering &c. unless upon Alarm, &c.

so producing such Certificate shall be and hereby is exempted from the ordinary duties of training or mustering, unless upon an Alarm, Invasion, Insurrection or Rebellion.

No person to be arrested during his attendance at Muster, on civil Process.

XII. *And be it further enacted*, That no person or persons shall be arrested on any civil Process whatever, during his attendance on the day of said training, or during the time of service, if called out in case of an Alarm, Invasion, Insurrection or Rebellion.

Limitation.

XIII. *And be it enacted*, That this Act shall be and remain in force for *Five years* and no longer.

### C A P. II.

An ACT for altering the Times of holding the Inferior Court of Common Pleas and General Sessions of the Peace for the County of KING'S.  
Passed the 5th of March, 1802.

**W**HEREAS the times appointed for holding the Courts of General Sessions of the Peace and Inferior Court of Common Pleas in the County of King's, has been found inconvenient; for remedy thereof—

*Be it enacted, by the* LIEUTENANT-GOVERNOR, *Council and Assembly*, That the said Courts shall hereafter be holden on the *FIRST* Tuesday in *March*, instead of the *SECOND* Tuesday in *February*, in each and every year.

### C A P. III.

An ACT for altering the Times of holding the Courts of General Sessions of the Peace and Common Pleas in the County of WESTMORLAND.  
Passed the 5th of March, 1802.

**W**HEREAS the times for holding the Court of General Sessions of the Peace and Inferior Court of Common Pleas in the County of Westmorland, have been inconvenient—

Courts to be holden in June and December.

Return Terms of the Common Pleas in March and September.

*Be it enacted, by the* LIEUTENANT-GOVERNOR, *Council and Assembly*, That the said Courts shall be hereafter holden on the *SECOND* Tuesdays in *June* and *December* in each year, at which Terms the Juries shall be summoned to attend, and the additional Terms or return Courts of the said Court of Common

mon Pleas, shall be holden on the SECOND Tuesdays in *March* and *September*, in each year, any Law or usage to the contrary notwithstanding.

II. *And be it further enacted*, That no Procefs shall abate or be discontinued by reason of the alteration of the said Terms, but shall and may be proceeded upon, heard and determined at the times herein appointed, in the same manner as they might have been proceeded upon had no alteration been made. No Procefs to abate or be discontinued by reason of the alteration.

III. *And be it further enacted*, That the several and respective Town and Parish officers, shall annually be appointed on the SECOND Tuesday in *December*, any Law or usage to the contrary notwithstanding. Parish officers to be appointed in December.

C A P. IV.

An ACT to render Persons convicted of PETTY LARCENY, competent Witnesses. Passed the 5th of March, 1802.

WHEREAS Persons convicted of Grand Larceny are by their Punishment restored to their Credit as Witnesses, but Persons convicted of Petty Larceny, are rendered and remain wholly incompetent to be examined as Witnesses—

*Be it therefore enacted, by the LIEUTENANT-GOVERNOR, Council and Assembly*, That from and after the passing of this Act, no person shall be an incompetent Witness by reason of a conviction for Petty Larceny.

C A P. V.

An ACT for the easy and speedy Recovery of Small Debts, and for regulating the proceedings thereon. Passed the 5th of March, 1802.

**B**E it enacted, by the LIEUTENANT-GOVERNOR, Council and Assembly, That all actions wherein the Sum or matter in demand shall not exceed *Five pounds*, shall be heard and determined before any one of His Majesty's Justices of the Peace in the respective Counties of this Province, and no other Court shall hold Plea or Jurisdiction of the same, and that the ordinary Procefs shall be by Summons under the hand and seal of such Justice directed to the Constable of the Town or Parish where the Defendant shall reside, which Procefs shall express the time and place of appearance and cause of action, and shall be served at least Six days before the time of Trial, and such service shall be by reading the same in the Defendant's hearing, or by leaving a true and attested Copy thereof at the Defendant's usual place of abode. Actions for sums not exceeding 5<sup>l</sup>. to be heard and determined before one Justice of the Peace Ordinary Procefs to be by Summons directed to the Constable of the Parish where Defendant resides. Shall be served six days before trial.

Constable to make return to the Justice, who shall proceed to Trial, unless Defendant shall demand a Jury, in which case the Justice shall issue a Venire.

In case of legal challenge other Jurors to be summoned & sworn, &c.

Verdict to be conclusive &c.

Witnesses to be sworn.

Defendant allowed set off.

If the Plaintiff is found indebted, Judgment to be for the Defendant, not exceeding £ 5.

No person to plead or counsel, &c. in any cause to which he is not a party—unless he first make Oath that he hath not received and will not receive any Fee or reward therefor.

Jurors and Witnesses refusing to appear or serve to forfeit a Sum not exceeding 10s.

On Affidavit that a Debtor is about to abscond—Justice may issue a Capias and order Bail.

II. *And be it further enacted,* That every Constable shall indorse on such Process a true return of the service thereof, and make return of the Summons to the Justice who issued the same; and upon such return the Justice shall proceed to hear the parties and their proofs and evidences, and give such Judgment thereon as to him shall appear just and equitable, unless the Defendant two days before such Trial shall give notice to such Justice that he shall put such cause to issue by a Jury, in which case the Justice shall issue a Venire to a Constable, commanding him to Summon three good and lawful Freeholders, who shall be in no wise of kin to either of the parties to make a Jury for the trial of the Action, and if any legal challenge be made to any or either of them for such Trial, the Constable shall Summon another or others in his or their stead, which Jury shall be sworn to try the issue and give their Verdict, and the Verdict so given shall be conclusive, and Judgment rendered thereon as in a Trial before a Court of Record, and the Witnesses shall in like manner be sworn to give their Evidence in the usual manner; and upon every Trial the Defendants shall be allowed to set off any account or demand they may have against the Debt or demand of the Plaintiff, and if upon any Trial it shall be found that the Plaintiff is indebted to the Defendant, judgment shall be rendered in favour of the Defendant for the Sum found due and Execution issued thereon, provided the same shall not exceed *Five pounds*.

III. *And be it further enacted,* That no person whatsoever shall be permitted by any Justice to prosecute, defend, plead or counsel in any Suit or Action to be tried by virtue of this Act, to which such person is not a party, unless such person so offering or appearing to prosecute, defend, plead or give Counsel as aforesaid, shall previously swear before such Justice that he has not received or taken any Fee or reward for the same, either directly or indirectly, nor any other person to or for his use, and that he will not, directly or indirectly, receive or take any Fee or reward for the same, either by himself or by any other person to or for his use.

IV. *And be it further enacted,* That every person impannelled as a Juror or subpoenaed as a Witness, who shall not appear, or appearing shall refuse to serve, or to give Evidence in any such action, shall forfeit and pay for every such default or refusal (unless some reasonable cause be proved on Oath to the satisfaction of the said Court) such Fine or Fines, not exceeding the Sum of *Ten shillings*, as the said Court shall think reasonable to impose.

V. *And be it further enacted,* That whenever it shall appear to any Justice upon Affidavit that any Debtor in a Sum not exceeding *Five pounds*, shall be about to abscond, or that the Creditor is in danger of losing his Debt, such Justice shall issue a Capias against the Body of such Debtor, and order the Constable

Constable to take Bail for the Sum sworn to; and it shall be the duty of the Constable to take the Body of such Defendant if found in his Parish, and take security for such Debtor's appearance at the time and place specified in the Writ; and in case the Debtor shall refuse to give such security, it shall be lawful for the Constable by Mittimus signed by any Justice of the Peace, to commit such Debtor to the Gaol of the County, and the Keeper of such Gaol shall retain such Debtor in custody till discharged by order of Law.

Constable to take the Body of the Defendant & Bail for his appearance.

Debtor refusing Bail to be committed to Prison.

VI. *And be it further enacted,* That every Justice of the Peace holding a Court for the trial of causes by virtue of this Act, shall keep a book in which he shall fairly enter all causes, whether tried before himself or with a Jury; and all Judgments entered on default of the Defendant's appearance, in which case he shall assess the Damages or Debt as shall appear to him just; and whenever it shall appear to him that Justice cannot be done for want of some material Witness, such Justice may in his discretion upon Affidavit adjourn the hearing of the cause until such Witness may be had, if the party has used all proper diligence to procure the same (not exceeding three Months) and if the application for such adjournment be on the part of the Defendant, such Justice at his discretion may grant it upon such Defendant putting in good Bail to abide final Judgment; and no Justice shall in any case admit the Oath of either party or any Affidavit taken ex parte, unless both parties agree to admit such Evidence.

Justice to enter in a Book all causes tried before him—and all Judgments entered on default, and in case of default to assess damages.

Justice may on Affidavit adjourn the hearing of the cause for want of a material witness, not exceeding 3 Months.

Oath of Parties or ex parte Affidavit not to be admitted but by consent.

VII. *And be it further enacted,* That whenever upon action of Trespass the Defendant shall justify on plea of Title, the Defendant shall commit such plea of Justification to writing, and the same shall be signed and the Justice shall countersign the same, and deliver the plea to the Plaintiff, and the Plaintiff may commence an Action for such Trespass in any Court having cognizance thereof: And if upon such Trial the Plaintiff recover Damages against the Defendant, such Defendant or Defendants shall be liable to pay the Plaintiff double Costs; and such plea before the Justice signed as aforesaid, shall be conclusive Evidence that the Defendants relied on their Title to justify such Trespass; and every Justice to whom such plea shall be tendered, before receiving the same shall require from the Defendants a recognizance with one sufficient surety in the sum of *Twenty pounds*, conditioned that if the Plaintiff shall commence an Action before the next Court having cognizance thereof, for recovery of Damages for such Trespass, such Defendants shall appear and put in special Bail in such Court within Twenty days after the first day of the then next Term of said Court; and whenever such plea shall be tendered and the Defendants shall not forthwith enter such recognizance, the Justice shall proceed in the same manner as if such plea had not been tendered.

Defendant justifying shall commit such plea to writing, which shall be countersigned by the Justice and delivered to the Plaintiff, who may commence his action in any Court having cognizance; and if the Plaintiff recovers the Defendant shall pay double costs.

Plea to be conclusive Evidence that Defendant relied on Title to justify. Justice to require from Defendant a recognizance to appear and put in special Bail, &c. for default of which Justice to proceed.

VIII. *And be it further enacted,* That no Judgment rendered

No Judgment to be reversed for circumstantial Error, or Writ of Error or Certiorari granted,

unless the party applying shall within thirty days make Affidavit that there is just cause for removing such Judgment.

Affidavit to be left with the Justice granting the Writ; Certiorari granted otherwise to be void.

No Execution to be stayed if the party shall give security to restore debt and costs in case of reversal.

Party prevailing to have costs.

ded by virtue of this Act, shall be reversed or set aside for any circumstantial Error where substantial Justice has been done, nor shall any Writ of Error or false Judgment be allowed; nor shall any Certiorari be granted by any Justice of the Supreme Court to remove any Judgment or proceeding by virtue of this Act, unless the party applying for the same shall within Thirty days after such Judgment make Affidavit before some Justice of the Supreme Court or Commissioner for taking Affidavits in that Court, by which Affidavit it shall clearly appear that there is just cause for granting a Certiorari to remove such Judgment either for Error therein or for some unfair practice of the Justice who tried the cause, which Affidavit shall be left with such Justice, allowing such Writ that the adverse party may obtain a copy thereof; and any Certiorari granted otherwise shall be void and of no effect; and no Execution upon any Judgment shall be stayed by any Certiorari, if the party in whose favor such Judgment shall be rendered shall give sufficient security to restore the Debt or Judgment with Costs in case such Judgment shall be reversed; and if any Judgment given under this Act be removed into the Supreme Court and be there affirmed, the party in whose favor such Judgment shall be rendered shall recover his Costs; and if such Judgment be reversed, the party procuring such Certiorari shall recover their Costs.

IX. *And be it further enacted,* That all Executions to be issued by the Justices respectively, shall be directed to the Constable of the Town or Parish where the Defendant resides, commanding him to levy of the Goods and Chattels of the Debtor the amount of the Judgment, and for want of such Goods and to satisfy his Fees to commit such Debtor to the Gaol of such County, there to remain until discharged by due order of Law, which Execution shall be returnable within

Execution returnable within 30 days. Constables for neglect liable to an action.

No Execution to issue where Title to Lands shall come in question, or actions of Assault and Battery or Slander.

Thirty days, and if any Constable shall neglect or refuse to serve such Execution or to pay the Money when collected to the Creditor, such Constable shall be liable to an action to be brought by the Creditor in any Court proper to try the same, provided that no Execution shall be issued by any Justice in an action where the title to Lands shall come in question, or to any action of Assault and Battery or of Slander.

X. *And be it further enacted,* That the Clerk's Court in the City of *Saint John*, shall be authorized and enabled to hold Plea and take cognizance of all causes made cognizable before any Justice of the Peace by virtue of this Act, not exceeding the sum of *Five pounds*; and that nothing in this Act shall be construed to extend to the City of *Saint John*, this Section only excepted.

XI. *And be it further enacted,* That no greater or other Costs shall be allowed or taxed in Actions brought by virtue of this Act than the following, to wit, Justices Fees—a Summons, *Six pence*—Capias and Affidavit, *One shilling*—Trial and

Costs.

Justices Fees.

and Judgment, *One shilling*—Subpœna, *Four pence*—Venire, *One shilling*—Execution, *Nine pence*—Every Witness subpœnaed and sworn, *One shilling*—Constable or other proper officer for serving a Capias or Summons, or serving an Execution, Mileage, for one Mile or under, *One shilling*; for every Mile more, *Three pence*—the Travel to be computed from the place of the Defendant's abode, or where he shall be found, to the place where the Writ is returnable;—Serving every Execution, for every Pound, *Six pence*;—Summoning a Jury, *One shilling*; Subpœna, *Six pence* for less than one Mile, and *Three pence* for every other Mile.

Constables Fees.

XII. *And be it further enacted*, That this Act shall continue and be in force for *Three years*, and no longer.

Limitation.

C A P. VI.

AN ACT for AIDING and ENCOURAGING PARISH SCHOOLS. Passed the 5th of MARCH, 1802.

**W**HEREAS the Education of Children is of the utmost importance to their future usefulness in Society;—  
AND WHEREAS the situation of many Parents in the different Parishes of this Province render them unable to procure for their Children the benefit of instruction in Reading and Writing, without the aid of the Legislature.

Preamble.

I. *Be it therefore enacted, by the* LIEUTENANT-GOVERNOR, Council and Assembly, That the Sum of *Four hundred and twenty pounds* (being *Ten pounds* to each Parish) be granted to the Justices of the General Sessions of the Peace in the different Counties in this Province, to be paid by Warrant of His Excellency the LIEUTENANT-GOVERNOR, out of the public Treasury, in Trust for the purpose of encouraging or assisting in the establishment of Schools in the different Parishes of their respective Counties.

*Ten pounds to each Parish, granted to the Justices in their General Sessions.*

*In Trust for encouraging the establishment of Schools.*

II. *And be it further enacted*, That the Sum of *Ten pounds* to each Parish hereby granted in Trust to the said Justices of the General Sessions of the Peace in each County, shall be by them in their discretion apportioned and allotted to each Parish in such manner as shall best assist in maintaining such Schools as may be already established, or as shall induce the establishment of other Schools where they may judge the same necessary.

*Justices to apportion the Money to each Parish.*

III. *And be it further enacted*, That the said Justices shall make report to the LIEUTENANT-GOVERNOR, Council and Assembly, at the next meeting of the General Assembly, how the Monies granted have been laid out, and how far the purposes hereby contemplated have been answered.

*And report to the Legislature.*

## C. A. P. VII.

An ACT, in addition to an Act, to regulate the Terms of the Sittings of the Inferior Courts of Common Pleas in this Province, and to enlarge the Jurisdiction of the same, and for the summary Trial of Actions. Passed the 5th of MARCH, 1802.

I. *BE it enacted, by the* LIEUTENANT-GOVERNOR, Council and Assembly, That no Defendant shall be held to Bail

No Defendant to be held to Bail in any Inferior Court, unless the cause of action exceed £ 10.

in any Action hereafter to be brought in any Inferior Court of Common Pleas or Mayor's Court in the City of *Saint John*, unless the Plaintiff's cause of Action shall amount to upwards of *Five pounds*, and Affidavit thereof made and filed as heretofore accustomed.

In all actions for Sums not exceeding £ 20, Declaration to be inserted in the Writ—

And Courts to proceed in a summary way.

No dilatory Plea allowed—and no Judgment reversed for circumstantial Error.

II. *And be it further enacted*, That in all Actions hereafter to be brought in the said Courts wherein the Sum or matter in demand shall not exceed *Twenty pounds*, the Declaration shall be inserted in the Writ, and the said Courts shall proceed thereon in a summary way, in the same manner as is directed in and by the said Act in matters not exceeding *Ten pounds*, in which Actions no dilatory plea shall be allowed, and no Judgment shall be reversed or set aside for any circumstantial Error or defect of form or pleading, or rendering Judgment, where substantial Justice shall appear to have been done.

No action to be removed into the Supreme Court unless the Sum exceed £ 20.

After Judgment, either party may bring Writ of Error.

III. *And be it further enacted*, That no Defendant or Defendants in any Action hereafter to be brought, shall remove such Action into the Supreme Court by Habeas Corpus, unless the matter in demand shall exceed *Twenty pounds*. **PROVIDED ALWAYS**, that either party after Judgment given, may bring a Writ of Error to remove such Judgment into the Supreme Court.

All actions for sums not exceeding £ 20, to be heard and determined in the Inferior Courts of Common Pleas and Mayor's Court— And in no other Court, unless where Title to Lands shall come in question.

IV. *And be it further enacted*, That all Actions hereafter to be brought, wherein the Sum or matter in demand shall not exceed *Twenty pounds*, shall be heard and determined in the Inferior Court of Common Pleas, in the respective Counties and Mayor's Court in the City of *Saint John*, and no other Court shall hold Plea or Jurisdiction of the same, unless the Title to Lands shall come in question.

Former Act in full force except as here by altered.

V. *And be it further enacted*, That the said Act, except where the same is hereby altered, shall be and continue in full force, any thing herein contained to the contrary notwithstanding.



## C A P. VIII.

AN ACT for raising a REVENUE in this Province, and for Appropriating the same, together with the Monies now in the Treasury. Passed the 5th of MARCH, 1802.

WHEREAS it is proper that Provision be made to defray the Debts necessarily incurred for the support of His MAJESTY'S Government in this Province.—

I. *Be it therefore enacted, by the* LIEUTENANT-GOVERNOR, Council and Assembly, That from and after the first day of April next, there be and hereby is granted to His MAJESTY, his heirs and successors, for the use of this Province and for the support of the Government thereof, the several Rates and Duties on the Articles herein after mentioned, which shall or may be brought or imported into any Port or place within this Province, to be paid by the Importers thereof, that is to say, for every Gallon of Rum, *Four pence*; for every Gallon of Brandy, Geneva, and all other distilled spirituous Liquors, *Four pence*; and for every Gallon of Wine, *Four pence*.

Duties per Gallon, on  
Rum, Brandy, Geneva & Wine, 4d.

II. *And be it further enacted,* That the Rates, Duties and Imposts, to be raised and paid by virtue of this Act, shall be paid at the time of the Importation of such Articles into the City and County of *Saint John*, unto the Treasurer of the Province or his Deputy, to be appointed in the manner herein after mentioned, and at every other Port or place to his Deputy or Deputies in such Counties respectively where the same shall be Imported; unless such Duties on any one Cargo shall amount to more than *Ten pounds*, and shall not exceed *Fifty pounds*, in which case the Treasurer or his Deputy, upon such Owner or Importer giving Bond with good and sufficient Security in double the amount of the Duties, payable upon the Articles specified in the report, may take the same payable in three Months; and if the said Duties shall amount to more than *Fifty pounds*, and shall not exceed *One hundred pounds*, Bonds may be so taken payable in six Months; and if the same shall amount to *One hundred pounds* and upwards, Bonds may be so taken payable in nine Months.

to be paid at the time of Importation,  
unless they amount to more than £10, then Bonds payable in 3 Months.  
If more than £50, in six Months.  
To £100 and upwards in 9 Months.

III. *And be it further enacted,* That every Master, owner and consignee of any ship, vessel or coasting craft, coming into any port or harbor of this Province, shall within Twenty-four hours after his arrival, and before going to the Custom-House, and before breaking Bulk, make report in writing by him subscribed and upon oath, to the said Treasurer or his Deputy, of all the packages or articles on board such ship, vessel or coasting craft, whether dutiable or not, describing the same, and shall also make oath that there has not to their knowledge or belief been landed or permitted to be landed or taken from on board such ship, vessel or coasting craft, any such articles within

Master, owner and consignee to report to the Treasurer,  
and make oath that nothing has been landed—

under penalty of  
£100.

Dutiable goods landed or not duly entered or found on board contrary to the provisions of this Act, to be forfeited.

And the Master & every person concerned liable to the penalty of £100.

Forfeitures, how applied.

Treasurer to have a Writ of Assistance from the Supreme Court or any Court of Common Pleas.

Treasurer to put Bonds in suit, if not paid in time,-

or be answerable for the same.

within this Province or any of the coasts thereof, since his sailing from the port or place where such articles were laden on board for exportation; and in case of refusal or neglect by any such Master, he shall be liable to the penalty of *One hundred pounds*. And if any dutiable articles shall be landed in any part of this Province before entry and report made as aforesaid, or not being duly entered as aforesaid, shall be found on board any ship, vessel or coasting craft, after such Entry made, or if any such articles shall have been landed from any ship, vessel or coasting craft, after report made as aforesaid, other than were specified in such report or Manifest, or for which a permit shall not have been obtained agreeable to the provisions of this Act, such dutiable articles so landed or found on board contrary to the true intent and meaning of this Act shall be, and the same are hereby declared to be forfeited, and shall and may be seized by such Treasurer or his Deputy, and information made and proceedings to condemnation had in the Supreme Court; and the Master of such ship, vessel or coasting craft, and each and every person concerned, shall be liable to the penalty of *One hundred pounds*. And all penalties and forfeitures incurred by virtue of this Act, after deducting the costs and charges of prosecution, together with all reasonable charges that may have accrued, shall be paid as follows, that is to say—One half part to the officer seizing and prosecuting the same to condemnation, and the residue into the hands of the Treasurer of the Province for the use thereof; and it shall and may be lawful to and for the said Treasurer and his Deputies, or either of them, authorized by Writ of Assistance under the Seal of His Majesty's Supreme Court or any Inferior Court of Common Pleas, issued with the allowance or Fiat of one of the Judges, on Affidavit duly made, to take the High-Sheriff in person or his Deputy, or any Coroner or Constable, and in the day time to enter and go into any House, Store, Warehouse or Outhouse, and in case of resistance to break open Doors and open and examine, Casks, Chests or other packages; there to seize and from thence to bring any kind of Goods or Merchandize whatsoever, so landed as aforesaid, contrary to the provisions and the true intent and meaning of this Act, and for which any Duties are payable and ought to have been paid or secured to be paid by this Act.

IV. *And be it further enacted*, That for the recovery of all such Duties as are imposed by this Act and shall not be paid at the times limited for the payment thereof respectively as aforesaid after the entry thereof, the said Treasurer is hereby authorized and directed to cause Process to be issued against all and every person and persons who shall stand indebted for Duties longer than the respective times allowed for the payment thereof. And if the said Treasurer shall not within One Month after the expiration of the respective periods hereby limited for the payment thereof, cause Process to be made for any Duties to arise by virtue of this Act, he shall be answerable for the same.

V. *And be it further enacted*, That the Treasurer of the Province for the time being, shall nominate fit persons (to be approved of by the LIEUTENANT-GOVERNOR or Commander in Chief) in the several Counties in this Province, to receive the several Duties laid and imposed by this Act; which persons so appointed shall give good and sufficient security to such Treasurer for the faithful discharge of their duty, and be accountable for all sums so to be received by virtue of this Act, to the Treasurer when thereunto required; which persons so appointed, shall have the same powers to make seizures and proceed to condemnation, as are given to the Treasurer by virtue of this Act; and may retain *Ten pounds* for every *Hundred pounds* they shall so receive, in full for their trouble and services, exclusive of their proportion of the proceeds of any goods they may seize by virtue of this Act.

Treasurer to nominate Deputies to be approved of by the Licut. Governor,

who are to give security

and have power to make seizures.

Allowed ten per cent.

VI. *And be it further enacted*, That it shall and may be lawful for the Treasurer of the Province, in case of sickness or necessary absence from the City and County of *Saint John*, to appoint a fit person to Act as his Deputy in the same City and County, for whose acts the said Treasurer shall be responsible; which Deputy shall have the same power and authority to act in every respect as any Deputy of the Treasurer in any other County of this Province can or may have by virtue of this Act: PROVIDED ALWAYS, that such Deputy shall not be entitled to the allowance of Ten per cent. hereby given to the other Deputies, nor to any other allowance, any thing herein contained to the contrary notwithstanding.

Treasurer in case of sickness or absence to appoint a deputy in *Saint John*—

who has no allowance.

VII. *And be it further enacted*, That from and after the Entry of any ship, vessel or coasting craft, at the Treasurer's office, there shall be a permit or permits made out and directed by the Treasurer to some person to be appointed by the LIEUTENANT-GOVERNOR or Commander in Chief for that purpose, (who shall be sworn to the faithful discharge of his duty) expressing the quantity of the several dutiable Articles contained in the said ship, vessel or coasting craft, as entered at the Treasurer's office; and if after such Entry made at the Treasurer's office as aforesaid, there shall be found landed from or on board such ship, vessel or coasting craft, any dutiable goods not duly entered at the Treasurer's office agreeable to the directions of this Act; or if any such dutiable goods shall at any time be found to have been landed from any ship, vessel or coasting craft, contrary to the provisions of this Act, or without a permit for that purpose obtained as aforesaid; the Master of such ship, vessel or coasting craft, and each and every person concerned, shall be liable to the penalty of *One hundred pounds*; and such person so to be appointed, is hereby authorized and required to detain all such goods as aforesaid, and shall immediately make report thereof to the Treasurer or his Deputy, who is hereby empowered to seize and prosecute the same to condemnation—And all such goods so seized are hereby declared to be forfeited, and shall be proceeded against as directed in the third section of this Act; and such person

Permits to be made out by the Treasurer.

Dutiable goods landed or found on board after Entry, contrary to the provisions of this Act.

Every person concerned liable to the penalty of £100.

Tide Surveyor to detain goods and report to the Treasurer, who is to prosecute, &c.

Goods so seized to be forfeited.

Forfeitures, how applied.

person so detaining such goods, shall have and receive One moiety of the part of such Forfeiture herein before directed to be paid to the Officer seizing and prosecuting the same.

Master, owner and consignee, before breaking Bulk to pay or give security.

VIII. *And be it further enacted*, That every Master, owner or consignee of every ship, vessel or coasting craft, coming into any port or harbor in this Province, shall before Bulk be broken, pay or give security as aforesaid, for the payment of the Duties imposed by this Act, upon all and every of the dutiable Articles on board such ship, vessel or coasting craft.—

Duties not to be demanded on Goods reported for exportation.

PROVIDED ALWAYS, That if any part of the Rum, Brandy, Geneva or Wine, imported as aforesaid, shall at the time of Entry thereof as aforesaid at the Treasurer's office, be reported for Exportation in the same ship, vessel or coasting craft, the Duties shall not be required to be paid or secured to be paid for such Rum, Brandy, Geneva or Wine, so reported.

Articles so reported being illegally landed,

IX. *And be it further enacted*, That if it shall at any time be found that any Rum, Brandy, Geneva or Wine, so reported for Exportation, has been landed contrary to the provisions of this Act, every ship, vessel or coasting craft in which the same was imported, shall be forfeited; and shall and may be seized and prosecuted to condemnation in the manner herein before mentioned.

Vessel to be forfeited.

X. *And be it further enacted*, That from and after the commencement of this Act, there shall be allowed on the following Articles, which shall have been imported into this Province, on the same being exported out of the Province (provided Two hundred Gallons or more are exported in one vessel at one time) the following Drawbacks, to wit:—On every gallon of Rum, *Three pence*; on every gallon of Brandy or Geneva, *Three pence*; and on every gallon of Wine, *Three pence*; of the Duties paid or secured to be paid on the several Articles.

Drawback allowed on articles exported.

To be paid on Oath made by the exporter within 6 months after exportation.

XI. *And be it further enacted*, That the Drawback herein before directed to be paid on the before recited several Articles exported out of this Province, shall, upon the same being so exported within Three Months from the said Importation be paid by the Treasurer to the Exporter thereof, out of the Monies arising from the Duties on the said Articles upon the said Exporter making the following Oath, by him subscribed, within Six Months after the Exportation as aforesaid, viz.—

Oath of Exporter.

"I do Swear, that I have exported out of this Province, in the whereof was Master, Gallons of and that the same was imported into this Province in the whereof was Master, and legally entered on the Day of and the Duty imposed on the said by an Act of this Province, has been paid or secured to be paid upon the same, and on every part thereof, and that the said has been actually landed in some Port or place without this Province, and not in any Port or place of the United States of America, to the Eastward of Machias harbor, to the best of my knowledge and belief."

And

And for the better preventing of Fraud herein Bonds shall be given with sufficient Securities in double the value of such Articles so to be exported, that the same or any part thereof shall not be clandestinely relanded in this Province, nor in any Port or place in the United States of America, to the Eastward of Machias harbor.

Bonds to be given that exported articles shall not be relanded.

XII. *And be it further enacted*, That if any of the before specified Articles shall be fraudulently relanded in any Port or place in this Province after Shipment for Exportation, the same shall be forfeited, proceeded against, and applied in the manner herein before directed.

Articles fraudulently relanded, to be forfeited and applied as aforesaid.

XIII. *And be it further enacted*, That if it shall be discovered at any time within one year after the Drawback shall be so received upon the Exportation of any Rum, Brandy, Geneva or Wine as aforesaid, that any of those Articles have been fraudulently landed contrary to the condition of the Bond given for the Exportation thereof as aforesaid, the Owner of such Rum, Brandy, Geneva or Wine, shall and may be prosecuted therefor by His Majesty's Attorney-General, by Bill, Plaint or Information, in the Supreme Court; and upon due conviction thereof shall forfeit and pay for each offence the Sum of *One hundred pounds*.

If discovered within a year to have been fraudulently relanded

Owner to be prosecuted

and fined £ 100.

XIV. *And be it further enacted*, That the quantities of Rum, Brandy, Geneva and Wine so imported, shall be ascertained by the Instrument commonly called Gunter's Callipers, and by no other Instrument whatever, and shall be so gauged by a sworn Gauger or Gaugers, legally appointed or to be appointed for that purpose, in the City of *Saint John*, by the LIEUTENANT-GOVERNOR or Commander in Chief of this Province for the time being; and in the several and respective Counties by the Justices in their Sessions. PROVIDED that no Gauger shall Gauge any dutiable Article his own property or consigned to him within this Province.

Rum, &c. to be gauged by Gunter's Callipers

by sworn Gaugers.

No Gauger to gauge his own, or property consigned to him.

XV. *And be it further enacted*, That every person who shall be convicted of making or taking a false Oath to any of the facts herein directed or required to be sworn, shall be deemed guilty of perjury; and shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

Persons taking a false Oath guilty of Perjury.

XVI. PROVIDED ALWAYS, *and be it further enacted*, That no Goods imported into this Province and consigned to any person in the Province of *Nova-Scotia*, shall be liable to any of the Duties imposed by this Act, but such Goods may be landed and re-shipped for the said Province, provided they are exported within Ninety days in the same packages they were landed, and the Consignee make Oath, before the Treasurer or his Deputy, that such Goods were originally shipped for the purpose of being conveyed into the Province of *Nova-Scotia*, and not intended for Sale or consumption in this Province, and that the said Goods are re-shipped in the same state and packages they were landed and received by him.

Goods imported into this Province consigned to *Nova-Scotia*, not liable to duties—

provided they are exported within 90 days in the same packages.

- XVII. *And be it further enacted*, That there be allowed and paid out of the Treasury of this Province, unto the several persons hereafter mentioned, the following Sums, viz.—
- Monies to be paid out of the Treasury.
- To the Speaker of the Assembly. To the Speaker of the House of Assembly, during the present Session, *Fifty pounds*.
- To the Members. To the Members of the House of Assembly, for defraying their Expences of travelling and actual attendance during the present Session, the days of such travel and attendance to be certified by the Speaker, *Ten shillings* per diem.
- Chaplain of the Council. To the Chaplain of the Council in General Assembly, for his services during the present Session, *Fifteen pounds*.
- Chaplain of the Assembly. To the Chaplain of the House of Assembly, for his services during the present Session, *Fifteen pounds*.
- To the Clerk of the Council. To the Clerk of the Council in General Assembly, for Stationary and other expences during the present Session, *Thirty pounds*.
- To the Rector and Wardens of *Frederickton*, for the relief of the Children of the deceased ISAAC HEDDEN, Esquire, late Clerk of the Assembly, *Twenty-five pounds*.
- To the Clerk of the Assembly. To the Clerk of the House of Assembly, for his services during the present Session, *Ten shillings* per diem, and for other services *Fifty pounds*.
- Serjeant at Arms attending the Council. To the Serjeant at Arms, attending the Council in General Assembly, *Ten shillings* per diem for his services during the present Session.
- Serjeant at Arms attending the Assembly. To the Serjeant at Arms attending the Assembly, *Ten shillings* per diem for his services during the present Session.
- Door-keeper of the Council. To the Door-keeper of the Council in General Assembly, *Five shillings* per diem during the present Session.
- Door-keeper of the Assembly. To the Door-keeper of the Assembly, *Five shillings* per diem for his services during the present Session.
- To the Messenger. To the Messenger, *Five shillings* per diem for his services during the present Session.
- To the Clerk of the Assembly for Fuel, Stationary, &c. To the Clerk of the House of Assembly, for Fuel, Stationary, and other expences of the present Session, *Forty-three pounds, Six shillings* and *One penny*.
- To the Treasurer of the Province. To the Treasurer of the Province for his services from the first day of March, One thousand Eight hundred and One, to the first day of March, One thousand Eight hundred and Two, *One hundred and Eighty pounds*.
- To the Tide Surveyor. To the Tide Surveyor in the City of *Saint John*, for his services from the first day of March, One thousand Eight hundred and One, to the first day of March, One thousand Eight hundred and Two, and expences incurred in performing the same, *Forty pounds*.
- To the Lieut. Governor for payment of the Adjutants of Militia. To His Excellency the LIEUTENANT-GOVERNOR for payment of the several Adjutants of the Militia, for the year One thousand Eight hundred and One, a Sum not exceeding *One hundred and Sixty pounds*.
- To the Lieut. Governor for Contingencies. To His Excellency the LIEUTENANT-GOVERNOR, for defraying Contingent expences of the Province, a Sum not exceeding *One hundred pounds*.

To the Justices of the Peace for the County of *Westmorland*, for completing the Court-House in that County, *One hundred pounds.* To the Justices of the Peace for *Westmorland*.

To His Excellency the LIEUTENANT-GOVERNOR, a Sum not exceeding *One hundred and Fifty pounds*, to defray the expence of such person as His EXCELLENCY may appoint, who shall view the Roads leading from the *Nova-Scotia* line to *Saint John* and *Frederickton*, and from *Saint Andrews* to *Saint John*, and report the situation of the same to the LIEUTENANT-GOVERNOR, *Council* and *Assembly*, at their next meeting, with his opinion of such alteration as he may judge requisite more effectually to compleat the general communication with estimates of the expence of such alterations or erection of such Bridges as he may think necessary. To the Lieut. Governor for examining Roads.

To His Excellency the LIEUTENANT-GOVERNOR, *Three hundred and Fifty pounds*, towards defraying the expence already incurred in building a Province Hall for the accommodation of the General Assembly and Courts of Justice in *Frederickton*. To the Lieut. Governor for defraying expences of the Province Hall.

To the Keeper of the Light-House on *Partridge* Island, *Seventy pounds*; and also *Ten pounds* for Fuel, commencing the first day of January, *One thousand Eight hundred and One*, and ending the first day of January, *One thousand Eight hundred and Two*; and the like Sums from the first day of January, *One thousand Eight hundred and Two* and ending the first day of January, *One thousand Eight hundred and Three*, which the Treasurer shall pay as the same may become due, out of the Monies arising from the Tonnage on Vessels, deducting such part as he may have already paid. To the Keeper of the Light-House.

To the Commissioners of the Light-House on *Partridge* Island, for the purpose of making such repairs to the same and to the Keeper's house as may be found necessary, *Twenty-five pounds.* To the Commissioners of the Light-House.

To the Sheriff of King's county, *Twelve pounds, Eight shillings* and *Four pence*, for returning a Member to serve in General Assembly. To the Sheriff of King's county.

To the Members for the City and County of *Saint John* in General Assembly, for defraying the expences to be incurred by printing the Journal of the present Session, *Thirty pounds.* To the Members for *Saint John*.

XVIII. *And be it further enacted*, That all the before mentioned several sums of Money, shall be paid by the Treasurer by Warrant issued by the LIEUTENANT-GOVERNOR or Commander in Chief for the time being, by and with the advice and consent of His MAJESTY'S Council, out of the Monies now in the Treasury or as Monies may come into the same. To be paid by the Lieut. Governor's Warrant.

XIX. *And be it further enacted*, That this Act shall continue and be in force (so far as relates to the quantum of Duties imposed, and the manner of collecting the same) until the first day of April, which will be in the year of our Lord, *One thousand Eight hundred and Three* and no longer, except for the recovery of any penalties inflicted in and by the thirteenth Section of this Act. Limitation.