

# ACTS

OF THE

*Pro. Victoria*

## GENERAL ASSEMBLY

OF

HIS MAJESTY'S PROVINCE

OF

## NEW-BRUNSWICK.

PASSED IN THE YEAR 1810.



SAINT JOHN:

PRINTED BY JACOB S. MOTT, PRINTER TO THE KING'S MOST EXCELLENT MAJESTY, AT THE SIGN OF THE BIBLE AND CROWN, PRINCE WILLIAM-STREET.

1810.

Rec. Aug. 14., 1906.





## THE TITLES OF THE ACTS.

|   | PAGE.        |
|---|--------------|
| I. <b>A</b> N Act to authorise the Sheriff or other Executive Officer serving process at the Parish of Saint Martin's, to convey any Prisoner there arrested to the Gaol in the City of Saint John by way of the public Road leading through a part of King's County. | 5            |
| II. An Act for making further provisions to prevent the destroying and murdering of Bastard Children, and for the further prevention of the malicious using of means to procure the miscarriage of women.   | <i>ib.</i>   |
| III. An Act to revive, continue and amend "An Act for the better securing the Navigation of Passamaquoddy Bay within Deer Island."  | 7            |
| IV. An Act to continue for a limited time an Act passed in the Thirty ninth year of His Majesty's Reign, intituled "An Act for regulating the Fisheries in the County of Northumberland."   | 8            |
| V. An Act for the better security of the Navigation of certain Harbours in the County of Northumberland.  | <i>ib.</i>   |
| VI. An Act for regulating, laying out, and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways, within the several Towns and Parishes in this Province.  | 10 —         |
| VII. An Act to provide for the more easy partition of Lands in coparcenary, joint-tenancy, and tenancy in common.   | 18 —         |
| VIII. An Act in addition to the Act to prevent the encumbering or filling up of Harbours.   | 22           |
| IX. An Act for better regulating the Militia in this Province.  | 23 —         |
| X. An Act to continue an Act, intituled "An Act to prevent illicit and clandestine Trade, and for imposing a duty upon articles illegally imported or brought into this Province, to be levied and paid after the condemnation and sale thereof."                     | 39           |
| XI. An Act to authorise the Justices of the Sessions in the City and County of Saint John, to levy an assessment for the purpose of repairing and adding to the Gaol of the said City and County.   | <i>ib.</i>   |
| XII. An Act in amendment of the Acts now in force for regulating Seamen.  | 40           |
| XIII. An Act to continue and amend an Act, intituled an Act for regulating Pilots.  | 41           |
| XIV. An Act to continue and amend an Act, intituled "An Act for raising a Revenue in this Province."  | <i>ib.</i> — |
| XV. An Act for the preservation of Oysters in the Counties of Westmorland and Northumberland.   | 42 —         |
| XVI. An Act to provide for the more effectually repairing the Streets and Bridges in the City and County of Saint John.   | 43 —         |
| XVII. An Act for the more easy and speedy recovery of small debts.  | 46           |
| XVIII. An Act in addition to an Act, intituled "An Act to empower   |              |

TITLES OF THE ACTS.

|  | PAGE       |
|--|------------|
| power the Justices of the Sessions, in the several Counties in this Province, to make such regulations respecting Markets and Ferries within such Counties as may be found necessary."   | 51         |
| XIX. An Act to make perpetual an Act, for the further and better support of the Poor in the City of Saint John.  | 52         |
| XX. An Act for the further regulation of Fisheries, and for preventing their decay.  | <i>ib.</i> |
| XXI. An Act to regulate the proceedings in actions of Replevin, and to enable the sale of goods distrained for Rent, in case the Rent be not paid in a reasonable time, and for the more effectual securing the payment of Rents, and preventing fraud by Tenants. | 55         |
| XXII. An Act to prevent the destruction of Moose on the Island of Grandmanan.  | 64         |
| XXIII. An Act to explain and amend the Laws now in force for regulating the exportation of Fish and Lumber.  | 65         |
| XXIV. An Act to authorise the Justices of the Peace in their General Sessions, to establish Ferries in their respective Counties.  | 66         |
| XXV. An Act to repeal an Act, intituled "An Act to render Justices of the Peace more safe in the execution of their duty."   | 67         |
| XXVI. An Act in addition to an Act, intituled "An Act for the more effectual prevention of desertion from His Majesty's Forces."   | <i>ib.</i> |
| XXVII. An Act to declare the qualification of Church Wardens and Vestrymen, in the several Parishes in this Province, and of the Persons having voices in their election.  | 68         |
| XXVIII. An Act to repeal an Act, intituled "An Act to make more effectual provision for repairing the Aboideau or Bridge across the Marsh Creek, in the City and County of Saint John.   | <i>ib.</i> |
| XXIX. An Act to revive and continue sundry Acts of the General Assembly, that have expired.  | 69         |
| XXX. An Act to revive and make perpetual an Act, intituled "An Act for the support and relief of confined debtors," and further to extend the provisions of the same.  | <i>ib.</i> |
| XXXI. An Act to provide for the erection of Fences, with gates across Highways, leading through intervale lands in Queen's County, and the County of Sunbury, where the same may be found necessary.   | 70         |
| XXXII. An Act for regulating the Importation of certain Articles into this Province.   | 71         |
| XXXIII. An Act to continue the establishment of County Schools, as provided for by an Act, intituled "An Act for encouraging and extending Literature in this Province."   | 72         |
| XXXIV. An Act to appropriate a part of the Public Revenue for the services therein mentioned.  | 73         |
| XXXV. An Act to grant and appropriate certain sums of money for Roads and Bridges.   | 77         |

L A W S

OF THE

PROVINCE OF NEW-BRUNSWICK.

CAP. I.

An ACT to authorise the Sheriff or other Executive Officer serving process at the Parish of Saint Martin's, to convey any Prisoner there arrested to the Gaol in the City of Saint John by way of the public Road leading through a part of King's County. Passed the 14th March, 1810.

WHEREAS the only communication by land between the City of Saint John, where the Gaol of the City and County of Saint John is, and the Parish of Saint Martin's in the same County, is by the public Road from the said City to the said Parish, which passes through a part of King's County, by means whereof no prisoner arrested at the said Parish, can legally be conveyed to the said Gaol in any other way than by water, which may be at times more dangerous and inconvenient, as well as more expensive than by the said public Road; for remedy whereof;

Preamble.

I. Be it enacted by the President, Council and Assembly, That any person or persons who may be legally arrested at the said Parish of St. Martin's upon any process, civil or criminal, be conveyed from thence to the City of St. John, to be committed to the said Gaol there, or for other legal purposes by the way of the said public Road, which passes as aforesaid, through a part of King's County, from the said Parish to the said City, as such prisoner or prisoners might have been conveyed in case the said public Road passed through the County of St. John only. Provided, that in the conveying of any such prisoner or prisoners no other deviation shall take place than resorting to such house or houses upon or near to the said Road as may be requisite for rest or refreshment.

Prisoners arrested at Saint Martin's may be conveyed to St. John by the Road leading through a part of King's County.

CAP. II.

An ACT for making further provisions to prevent the destroying and murdering of Bastard Children, and for the further prevention of the malicious using of means to procure the miscarriage of women. Passed the 14th March, 1810.

WHEREAS it is expedient to make further provisions for the prevention and punishment of the offences of destroying and murdering Bastard Children, and of the malicious using of means to procure the miscarriage of Women.

Preamble.

I. Be

Trials of women charged with murder of bastard issue of their bodies to be similar to other trials for murder.

I. *Be it enacted by the President, Council and Assembly, That* the Trials of Women charged with the Murder of any issue of their Bodies, male or female, which, being born alive, would by Law be bastard; shall proceed and be governed by such and the like rules of evidence and of presumption as are by Law used, and allowed to take place in respect to other Trials for Murder, any Law, usage or custom to the contrary thereof in any wise notwithstanding.

Jury may find, if it shall so appear in evidence that the prisoner was delivered of issue which if born alive would have been bastard, and endeavored to conceal the birth.

II. *Provided always, and be it enacted,* That it shall and may be lawful for the Jury by whose verdict any prisoner charged with such Murder as aforesaid, shall be acquitted, to find, in case it shall so appear in evidence, that the prisoner was delivered of Issue of her Body, male or female, which, if born alive, would have been bastard, and that she did, by secret burying or otherwise, endeavor to conceal the birth thereof; and thereupon it shall be lawful for the Court, before which such prisoner shall have been tried, to adjudge that such prisoner shall be committed to the common Gaol or House of Correction for any time not exceeding two years.

Prisoner in such case shall be committed to gaol not exceeding two years.

Using means to murder, or to procure the miscarriage of a woman quick with child, Felony without benefit of clergy.

III. *And be it further enacted,* That if any person or persons shall wilfully, maliciously, and unlawfully administer to, or cause to be administered to, or taken by, any Woman, then being quick with Child, any deadly poison, or other noxious and destructive substance or thing, with intent such Woman thereby to murder, or thereby to cause and procure the miscarriage of such Woman then being quick with Child, that then, and in every such case, the person or persons so offending, his, her or their counsellors, aiders and abettors, knowing of and privy to such offence, shall be, and are hereby declared to be Felons and shall suffer death as in cases of Felony, without benefit of Clergy.

Using means to procure miscarriage of a woman not quick with child, made Felony.

IV. *And whereas,* it may sometimes happen that poison or some other noxious and destructive substance or thing may be given, or other means used with intent to procure miscarriage or abortion where the Woman may not be quick with Child at the time, or it may not be proved that she was quick with Child—*Be it therefore further enacted,* that if any person or persons shall wilfully and maliciously administer to, or cause to be administered to, or taken by, any Woman any Medicine, Drug, or other substance or thing whatsoever, or shall use or employ or cause or procure to be used or employed any instrument or other means whatsoever with intent thereby to cause or procure the miscarriage of any Woman not being, or not being proved to be quick with Child at the time of administering such things or using such means, that then, and in every such case, the person or persons so offending, his, her or their counsellors, aiders and abettors, knowing of and privy to such offence, shall be and are hereby declared to be guilty of Felony, and shall be liable to be fined, imprisoned, set in and upon the Pillory, publicly or privately whipped, or to suffer one or more of the said punishments at the discretion of the Court before which such offender or offenders shall be tried and convicted.

How punished.



## CAP. III.

An ACT to revive, continue and amend "An Act for the better securing the Navigation of Passamaquoddy Bay within Deer Island." Passed the 14th March, 1810.

**W**HEREAS an Act made and passed in the Forty-first Preamble. Year of His MAJESTY'S Reign, intituled "An Act for the better securing the Navigation of Passamaquoddy Bay within Deer Island," has been found insufficient for the purposes intended by the said Act. And whereas it is necessary for the greater security and conveniency of said Navigation that a Beacon be erected on the reef of rocks on the Western side of *St. Andrews* harbour, that the depth of water on the Bar on the Western side of said harbour should be increased, and a Slip built in said harbour, and that further provisions should be made for defraying the expence of such improvements and likewise for replacing and repairing the same as well as the Buoys and Beacons already erected as they may be injured or carried away by ice, gales of wind or other accidents.

I. *Be it therefore enacted by the President, Council and Assembly,* That it shall and may be lawful for such Commissioners, or Commissioners to erect a Beacon on the Reef of Rocks on the western side of St. Andrews Harbour, and deepen the Channel of the Bar, the major part of them, as His Honor the President shall appoint, to erect a Beacon on the reef of rocks on the Western side of *St. Andrews* harbour, to widen and deepen the channel of the bar on the Western side of said harbour in such manner as to increase the depth of the channel on said bar at high water, that vessels of a large draught of water may more easily and safely come into, or sail from that harbour; and likewise to build a Slip and to build a Slip. in said harbour.

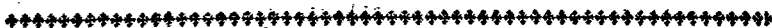
II. *And be it further enacted,* That from and after the time it shall be certified under the hands of the Justices of the Common Pleas, or the major part of them, to the Deputy Treasurer of the said County, that the said Beacon is erected and the channel on said bar widened and deepened; there be and hereby is granted to His MAJESTY, his heirs and successors, for defraying the expence of such improvements, and for replacing and keeping the same in repair, as well as the Buoys and Beacons already erected, so often as they may be carried away or injured; an additional tonnage duty of *one halfpenny* per ton on all inward bound vessels (coasting craft excepted) entering *Passamaquoddy Bay* within *Deer Island*, for every ton they respectively admeasure agreeably to register, for each time they arrive in *Passamaquoddy Bay* within *Deer Island* aforesaid. After the said Beacon shall be erected and the Channel deepened, an additional duty of one halfpenny per ton to be paid for all vessels other than coasters, for each time they arrive within Deer Island.

III. *And be it further enacted,* That the said tonnage duty hereby granted, shall be collected, applied and accounted for in the same manner and under the same regulations and penalties as the tonnage duty granted in and by the herein before recited Act. Duties to be collected, applied and accounted for as directed by the former Act.

IV. *And be it further enacted,* That ten per cent shall be allowed

Ten per cent allowed for collecting. lowed for collecting the said tonnage duty instead of five per cent, the sum allowed in and by the fifth section of the herein before recited Act:

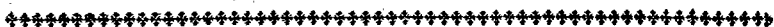
Former Act revived and continued with this Act for ten years. V. And be it further enacted, That the said herein before recited Act; and every part thereof, not hereby altered shall be revived and continue, and together with this Act be in full force for the term of ten Years and no longer.



CAP. IV.

An ACT to continue for a limited time an Act passed in the Thirty-ninth Year of His Majesty's Reign intituled "An Act for regulating the Fisheries in the County of Northumberland." Passed the 14th March, 1810.

Continued for ten years. BE it enacted by the President, Council and Assembly, That an Act made and passed in the Thirty-ninth Year of His MAJESTY'S Reign, intituled "An Act for regulating the fisheries in the "County of Northumberland," be continued; and the said Act and every clause, matter, and thing therein contained, is hereby continued and declared to be in full force for ten years, and from thence to the end of the then next Session of the General Assembly and no longer.



CAP. V.

An ACT for the better security of the Navigation of certain Harbours in the County of Northumberland. Passed the 14th March, 1810.

Preamble. WHEREAS for the greater safety and conveniency of the Navigation of the Bay and harbours of Miramichi, Bouchette, Richibucto and Cocagne, it is necessary that Beacons or Buoyes be erected in said Bays and harbours and that provision be made for defraying such expences as may be incurred in erecting, repairing and replacing such Beacons or Buoyes.

Commissioners to cause Beacons and Buoyes to be erected. I. Be it therefore enacted by the President, Council and Assembly, That it shall and may be lawful for such Commissioners as His Honor the President or Commander in Chief for the time being shall appoint, or the major part of them, to cause to be erected in said Bays and harbours such a number of Beacons and Buoyes, as they or the major part of them, shall think necessary for the safety and conveniency of the navigation of the same.

When the Beacons or Buoyes shall be erected, a halfpenny per ton granted on all vessels other than coasters, for defraying the expence. II. And be it further enacted, That so soon as the said Beacons or Buoyes shall be erected, and the same certified to the satisfaction of the Commissioners, or major part of them, to be appointed in manner herein before mentioned, there be and hereby is granted unto His MAJESTY, his heirs and successors for

for defraying such expences as may be incurred in erecting, repairing, or replacing such Beacons or Buoys, that is to say, on all vessels entering the Bay and harbours of *Miramichi, Buc-touche, Richibucto, and Cocagne* the tonnage duties herein after-mentioned, to wit, on all vessels, (coasting craft excepted,) *one halfpenny* for each and every ton such vessels admeasure per Register, for each and every time such vessel or vessels arrive in any of the said harbours.

III. *And be it further enacted,* That the tonnage duties here-in imposed shall be collected by the Deputy Province Treasu-<sup>Duties to be collec-  
ted by the Deputy  
Province Treasurer,  
or by persons to be  
appointed by him,  
who shall render an  
account on oath to  
the Commissioners  
when required, of all  
sums received, de-  
ducting ten per cent  
for collecting.</sup> rurer for the County of *Northumberland*, or such person or persons as he may appoint for that purpose, and that the said Commis-<sup>or by persons to be  
appointed by him,  
who shall render an  
account on oath to  
the Commissioners  
when required, of all  
sums received, de-  
ducting ten per cent  
for collecting.</sup> sioners shall have full power and authority to call upon the said Deputy Province Treasurer and the persons to be appointed by him as aforesaid, for such sum and sums of money as they shall from time to time respectively have collected; an account of which sum, so to be collected by the persons to be appointed by the said Deputy Province Treasurer as aforesaid, shall be by them respectively, when called upon as aforesaid, rendered upon oath to the said Commissioners, deducting from the amount collected ten per cent which it shall be lawful for such Deputy Province Treasurer to retain for his trouble in collecting the same.

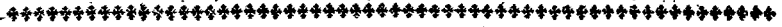
IV. *And be it further enacted,* That every master of such ship or vessel who shall refuse or neglect to call upon the Deputy Province Treasurer, or such person as he may appoint for said County or place, and pay to him such tonnage duties as are herein before imposed within five days after his arrival, shall forfeit and pay for such neglect the sum of *three pounds*, to be sued for by the said Deputy Province Treasurer or other person authorised to receive the same, and recovered before any one of His MAJESTY'S Justices of the Peace, and applied for the purpose of erecting, repairing, and replacing such Beacons and Buoys.<sup>Masters of vessels  
neglecting or refus-  
ing to call and pay  
duties, to forfeit 3l.  
to be recovered by  
the Deputy Province  
Treasurer before a  
Justice of the Peace.</sup>

V. *And be it further enacted,* That the Commissioners to be appointed in pursuance of this Act, shall at the first Court of General Sessions of the Peace, held in the County of *Northum-berland*, in each and every year, render an account yearly of the monies from time to time received and expended in pursuance of this Act, the balance if any to be applied by the said Com-<sup>Commissioners to ac-  
count annually at the  
first Court of Gene-  
ral Sessions for mo-  
nies received and ex-  
pended.</sup> missioners, or the major part of them, for the purpose of further improving the navigation of said Bays and Harbours.<sup>Balance to be appli-  
ed for further im-  
proving the Naviga-  
tion.</sup>

VI. *And be it further enacted,* That if any person or persons shall take away, destroy, deface, or remove any of the said Beacons or Buoys, such offender or offenders shall on due con-<sup>Penalty of 5l. for re-  
moving or injuring  
the Beacons or Buoys  
to be recovered be-  
fore a Justice of the  
Peace; on failure of  
payment or for want  
of goods whereon to  
levy; offender to be  
committed to gaol  
not exceeding one  
month.</sup> viction thereof by the oath of one or more credible witness or witnesses before any one of His MAJESTY'S Justices of the Peace, forfeit and pay the sum of *five pounds* to be recovered and ap-plied as aforesaid, and on failure of the payment thereof, or want of goods and chattels whereon to levy; such offender or offenders shall be committed by such Justice to the County Gaol for a space of time not exceeding one month.

Limitation.

VII. *And be it further enacted,* That this Act shall be, and continue in force for the term of five years and no longer.



CAP. VI.

An ACT for regulating, laying out, and repairing Highways and Roads, and for appointing Commissioners and Surveyors of Highways, within the several Towns and Parishes in this Province. Passed the 14th of March, 1810.

Commissioners and Surveyors appointed by virtue of former Acts to continue till others shall be appointed and sworn.

Three Commissioners and a competent number of Surveyors to be appointed in each Parish, to oversee and repair the Highways,

to be sworn to the faithful discharge of their duty,

for refusal or neglect of duty to forfeit 5l. to be recovered before two Justices.

In cases of vacancy other persons to be appointed and liable to the same penalty for neglect or refusal.

I. *Be it enacted by the President, Council and Assembly,* That the Commissioners and Surveyors already appointed by virtue of any Act now in force for laying out Highways, Roads and Streets shall continue in their respective offices until others shall be appointed and sworn as is hereafter directed, and that the Justices at their General Sessions, to be held for the several Counties next after the first day of January annually, shall appoint three fit persons to be Commissioners to lay out and regulate Highways, Roads and Streets in the Town or Parish for which they shall be so appointed, and the said Justices at the same time shall appoint a competent number of fit persons to be Surveyors of the said Highways, Roads and Streets in each Town or Parish, who are to oversee and repair in the manner herein after directed, the several Highways, Public Roads and Streets within the respective Towns or Parishes for which they shall be appointed, which said Commissioners and Surveyors shall be sworn to the faithful discharge of their respective offices for the year ensuing before the said Sessions or before any one of the Justices of the Peace within or nearest to the said Town or Parish for which such Commissioners or Surveyors shall be so appointed; and any person being so nominated and appointed who shall refuse to accept of such office, to which he shall be so nominated and appointed, or shall neglect to be sworn as aforesaid within fourteen days next after being duly notified of such nomination or having accepted, shall neglect his duty, shall forfeit for every refusal or neglect *five pounds* to be recovered with costs of suit, before any two of His MAJESTY'S Justices of the Peace and the forfeiture shall be applied for the repairing of the Highways. *Provided always and be it further enacted,* That in case of the death or removal or other incapacity of any person so appointed, and sworn, or of the neglect or refusal of any person so appointed to accept of the said office, it shall be lawful for the three Justices in or nearest to the Parish for which such person was appointed or for the Justices at the general or any special Sessions of the Peace to appoint another in his stead and that such person so appointed shall be liable to the same penalty for refusing to qualify within fourteen days after being notified of the same appointment or for neglect or refusal to do the duty after being qualified as is herein before provided for the persons to be first appointed and so *toties quoties*.

II. *And be it further enacted,* That the Commissioners or the major

major part of them, in the respective Towns or Parishes for which they shall be appointed Commissioners, are hereby empowered and authorised to lay out such public Highways and Roads as they or the major part of them shall think most convenient as well for travellers as for the inhabitants of each Town or Parish and the next adjacent Towns, Villages and Neighbourhoods, and also to regulate the Highways, Roads and Streets already laid out and if any of them shall appear inconvenient, and an alteration absolutely necessary, and the same be certified upon oath, by twelve disinterested Freeholders of the County in which such Highways, Roads and Streets lie, to be summoned by the High Sheriff, his Deputy, or any Constable in the County, by virtue of a Warrant to be issued by two Justices of the Peace for that purpose, on the application of twelve or more Freeholders residing within the Parish where the said Highways, Roads or Streets lie, then the said Commissioners shall alter the same, and the said Commissioners or the major part of them shall instead thereof lay out such other Highways or Roads as they judge most convenient to answer the purpose aforesaid; which Highways and Roads so laid out, shall be common Highways, and the charge arising from summoning such Jury, shall be paid by the persons applying to said Justices. *Provided always,* that nothing in this clause shall extend to prevent the Commissioners from altering any Highways or Roads with the consent of the inhabitants of such Parish without the necessity of summoning such Jury: The said inhabitants to be notified in writing by the Commissioners one month previous to any alteration whatever in three of the most public places of such Parish aforesaid.

Commissioners may lay out Highways & alter Roads already laid out if upon the oath of 12 Freeholders to be summoned by warrant of two Justices, if they appear to be necessary, or

with the consent of the Inhabitants of the Parish without such jury.

III. *And be it further enacted,* That if any person or persons do or shall hereafter alter, stop up or encroach on any Street, Highway or Public Road by laying timber, wood, carts, trucks or any thing thereon, such person so offending contrary to the meaning of this Act, shall for every such offence forfeit the sum of *forty shillings*, to be recovered with costs of suit before any one Justice of the Peace upon the Oath of one or more credible witness or witnesses, and levied by warrant directed to the Constable of the Town or Parish where such offence shall be committed, by distraining the Goods and Chattels of the offenders, and where no such effects are to be found, the offender or offenders to be imprisoned for six days, or in case such offender shall not be known or found, the same shall be recovered by the sale of so much of the Timber or Wood, and the Carts and Trucks or other things incumbering or stopping up such Highways, Roads or Streets as aforesaid. And the said Constable after public notice is given by him of the selling such distress, shall make sale thereof, and out of the produce, shall pay the forfeiture and charges and return the overplus, if any there be, to the owner or owners thereof when found, which said forfeitures shall be applied by the Commissioners, for and towards the repairing the Public Roads, Highways or Streets within the district of the Town or Parish, where the same may arise; and if the said nuisance shall continue, the same shall be deemed a new offence, and shall be prosecuted and liable to the penalty aforesaid.

Persons altering, stopping up, or encroaching on any Street or Highway, to forfeit for every offence forty shillings.

*IV. And be it further enacted,* That the width of all Highways or Roads hereafter to be laid out shall be left to the discretion of the Commissioners for the time being of the Town or Parish where such Highways or Roads may be laid out, so that they do not exceed in breadth six rods, and are not less than two rods.

Width of Roads to be not more than six nor less than two rods.

*V. And be it further enacted,* That the Highways, Roads and Bridges within each County, shall be cleared, maintained and repaired by the inhabitants thereof, and that all male inhabitants of the age of sixteen years and upwards (except as herein after mentioned) shall either in person or by able sufficient men in their stead in each and every year, provided with such necessary implements as shall be directed by the respective Surveyors, work six days (allowing eight hours to each days work) on the said Highways, Roads, Streets and Bridges, within the Town or Parish where they respectively dwell. *Provided always,* that Persons above sixteen and under twenty-one years of age, apprentices, and hired servants shall be obliged to work three days and no more, common labourers and journeymen mechanics four days and no more. *Provided also,* that upon application to two of His MAJESTY'S Justices of the Peace in the County, the said Justices shall and may at their discretion lessen the number of days labour to be performed by any indigent person.

Inhabitants of the age of sixteen years and upwards to work six days in the Parishes where they dwell, excepting those under twenty-one years, apprentices and hired servants who are to work three days, and common labourers & journeymen mechanics who are to work four days.

Justices may lessen the labour of indigent persons.

*VI. And be it further enacted,* That the Commissioners in each Town or Parish for the time being shall by the first day of May in each and every year make out a list of the inhabitants in such Town or Parish with the number of days work to be performed by each, and shall advertise the same at the most public place in such Town or Parish, and shall also furnish the Surveyors in their respective districts with a list of such inhabitants and the number of days work so to be done by each, and shall within fifteen days direct the said Surveyors at what places the work shall be done; which work shall be done by such inhabitants under the direction of such Surveyors. And it shall further be the duty of the said Commissioners to add to their list the names of such persons as may come into their respective Parishes to reside, after the first day of May, unless they produce a Certificate of their having performed their respective proportions of labour in some other Town or Parish.

Commissioners by the first of May to publish lists of Inhabitants in their Parishes with the number of days labour to be performed,

and within fifteen days direct Surveyors at what place the work shall be done.

Persons coming to the Parish after the first of May to be added to the list.

*VII. And be it further enacted,* That if any persons in such list named, prefer paying money to doing such labour, it shall and may be lawful for such Commissioners to take and receive from such persons the sum of *four shillings* per day for each days labour required to be done by them; and the monies which may be paid in lieu of such labour, as well as forfeitures which may be received by virtue of this Act, shall be laid out under the direction of such Commissioners, on such Highways, Streets, Roads and Bridges between the first day of May and the first day of November in every year, and accounted for by them to the Justices at their first General Sessions in every year.

Commissioners may list named, prefer paying money to doing such labour, it shall and receive four shillings per day in lieu of labour, the money to be laid out on the Highways, &c.

*VIII. And be it further enacted,* That the Surveyors of Highways

ways in their respective districts shall be and are hereby empowered (in the fittest and most seasonable time between the first day of May and the first day of November yearly, to summon the persons contained in their respective lists, giving them at least six days notice of the time and place where they are to be employed and shall there oversee and order the persons so summoned to labour in making, mending or repairing the Highways, Roads, Streets and Bridges in the most useful manner during the number of days appointed for each person to labour; and when any Surveyor of Highways shall judge the use of waggons, carts, trucks, ploughs or harrows more necessary than the labour of men, in that case he may call on any person within his district keeping any waggon; cart, truck, plough or harrow with two oxen or two horses; which waggon, cart, truck, plough; or harrow, with two oxen or two horses with a competent driver shall be equal to two days labour, and such Surveyors of Highways shall be excused from any other service on the Highways than the summoning, ordering and directing thereof.

Surveyors to summon Inhabitants between first of May and first of November, giving six days notice, to work on the Roads, and to oversee the work,

and if necessary may call out carts, ploughs &c. which with two oxen or horses to be equal to two days labour.

IX. *And be it further enacted*; That if any person or persons when so summoned to labour as aforesaid by the Surveyors of their respective districts, shall neglect or refuse to appear and labour agreeably to such summons, it shall be the duty of such Surveyor, forthwith to make report of such delinquency to some one of the Commissioners, who shall without delay make complaint to a Justice of the Peace, against every such delinquent which Justice shall on conviction, adjudge every such delinquent to pay the sum of *four shillings* for every day he has so neglected to appear and labour together with costs of suit to be levied by warrant of distress and sale of such offenders goods and chattels under the hand and seal of such Justice, directed to any Constable in the Town or Parish to which such offender may belong, and in case no goods or chattels can be found it shall and may be lawful to commit such offender to the common Gaol of the County not exceeding six days; and if any person who shall appear agreeably to such summons and being under the direction of such Surveyor shall refuse or neglect to work, or shall not work in such manner as to satisfy such Surveyor, he is hereby empowered to dismiss such person from the work, and shall forthwith make complaint against him to some one of the Commissioners who shall immediately proceed against him in the same manner as is herein before directed to be done against persons neglecting to appear and labour after being duly summoned, and the person so dismissed by such Surveyor, for such delinquency; shall be adjudged to pay the sum of *four shillings* for every day he shall have neglected or refused to work to the satisfaction of such Surveyor agreeably to such summons, or be liable to imprisonment not exceeding six days in the manner herein before mentioned.

Persons neglecting or refusing to labour agreeably to summons to forfeit four shillings for every day's neglect or refusal, to be recovered on complaint of a Commissioner before a Justice of the Peace,

and levied with costs by warrant of distress and sale, and for want of goods the offender to be imprisoned not more than six days.

Persons not working to the satisfaction of the Surveyor, to be dismissed and proceeded against in like manner.

X. *And be it further enacted*, That in case any person keeping any waggon, cart, truck, plough or harrow with two oxen or two horses when called upon as aforesaid by such Surveyor, shall refuse or neglect to furnish such waggon, cart, truck, plough or harrow

Persons refusing to furnish carts, &c. and teams, to forfeit eight shillings per day, to be recovered in the manner directed by the last preceding Section.

harrow with two oxen or two horses with a competent driver, agreeably to such direction of such Surveyor, it shall in like manner be the duty of such Surveyor forthwith to make complaint of such offender last mentioned to some one of the Commissioners who shall immediately proceed against him in the same manner as is directed in the last preceding section, and such offender last mentioned shall be adjudged to pay the sum of *eight shillings* for every day he shall so have neglected or refused to furnish such waggon, cart, truck, plough or harrow with two oxen or two horses with a competent driver agreeably to such direction of such Surveyor, or be liable to imprisonment, not exceeding six days in the manner in the same Section mentioned. *Provided always*, that if any person shall produce a certificate from any Commissioner appointed by virtue of this Act, that he has in the current year done his tour of labour or any part thereof in any Parish in this Province; he shall be excused from doing such labour or such part thereof that year; as may be so certified in any other Parish.

Persons producing a certificate of having worked in any Parish, to be excused from working in any other Parish.

XI. *And be it further enacted*, That the Commissioners for each Town or Parish for which they shall be appointed, shall from time to time enter in writing all the Highways or Roads laid out or altered, and sign the same, and within three months after such Highway or Road shall be laid out or altered as aforesaid, make a return thereof into the Office of the Clerk of the Peace for the County in which such Highways or Roads are laid out, to be by such Clerk entered in a book kept for that purpose, and whatsoever the said Commissioners shall do according to the powers given them in this Act, being so entered, shall be valid and good to all intents and purposes whatsoever; and that every Commissioner, who shall refuse or neglect to perform the duty enjoined and required of each of them as aforesaid, shall forfeit and pay for every such refusal or neglect the sum of *three pounds* to be recovered and applied as aforesaid.

Returns of Highways to be made to the Clerks of the Peace and by them registered.

Commissioners for refusing or neglecting duty to forfeit 3l.

XII. *And whereas*, it may be necessary to lay out private Roads within the several Counties in this Province; *Be it further enacted*, That upon application to the Commissioners appointed as aforesaid, for any Town or Parish, for a private Road, the Commissioners shall view the same, and if they are of opinion such Road is absolutely necessary, and twelve principal Freeholders to be summoned in manner aforesaid, under oath, shall be of the same opinion, the said Commissioners are hereby empowered to lay out such Road. *Provided*, that they shall not lay out such Road through any persons land, without the consent of the owner or owners thereof, or agreeing with or paying to him or them the value of the land so to be laid out into such Road, with such damages as he or they may sustain by the said Road, and in case they cannot agree, then the true value shall be set and appraised by the Justices of the Peace issuing such warrant as aforesaid, for the summoning such Freeholders, and by the oath of the said Freeholders so summoned; and all the expences and charges attending the said Road shall be paid by the person or persons applying for the same; and the said Road

Commissioners if on the oath of twelve Freeholders it shall appear to be necessary, may lay out private Roads,

but not without the consent of the owner of the Land, or paying him the value of the Land laid into the Road with the damages to be estimated by agreement, or by the oath of the Freeholders.

Charges for private Roads to be paid by the applicant, to whose sole use the

when



when laid out shall be for the only use of the person or persons who shall pay for the same, his and their heirs and assigns; but for no other use and purpose than that of a Road. *Provided always*, that the owner or owners of the land through which such private Road may be laid, shall not be prevented from making use of such Road, if he shall signify his intention of making use of the same at the time when the Jury are to ascertain the value of the land, and the damages by means of laying out such Road. *Provided also*, that no such private Road shall be laid out more than two rods wide against the consent of the owner or owners of the lands through which the same is to pass.

Road shall be, unless the owner of the Land shall at the time of estimating the damages, signify his intention to use it.

XIII. *And be it further enacted*, That if any public Road hereafter to be laid out by virtue of this Act, shall pass through any improved lands; where the damage to the owner or owners of such lands by means of such Road shall be greater than the allowance made for Roads in the grants of such lands, which shall be ascertained by a Jury to be summoned in the manner first herein before mentioned on the application of the owner or owners of the said land; or if such Road shall occasion the removal of any buildings, then and in such cases, the damage to the owner or owners of such land shall be ascertained by such Juries, and shall be paid as other contingent charges of the County are paid:

Damages by public Roads through improved Lands being greater than allowance for Roads in the Grant to be estimated by a Jury and paid for as other contingent County charges.

XIV. *And be it further enacted*, That the Commissioners of Highways and Roads for each Town or Parish, or a major part of them be, and they are hereby authorised and required after the first snow, and as soon as the rivers and marshes are safe for the passing of cattle on the ice, to order the Surveyors of Highways and Roads for the said Town or Parish, to summon forth with so many inhabitants as the said Commissioners shall in their discretion think necessary, to work after such manner as they the said Surveyors shall direct, in cutting or carrying bushes, or marking ways, and such person not attending, or refusing to perform the said work as directed by the said Surveyors, shall forfeit the sum of *four shillings* for each days neglect. And the rivers and the several parts of the same when frozen over as aforesaid, shall be considered as a part of the Towns or Parishes to which they are respectively opposite, for the purposes directed by this clause. And the Commissioners for the Towns or Parishes opposite to each other upon any river are hereby authorised and required to agree upon and determine the distance upon the said river, which is to be worked upon by their respective Towns in pursuance of this Act.

Commissioners to order Surveyors to summon Inhabitants to mark ways in the snow.

Persons neglecting or refusing to work forfeit four shillings for each day.

Rivers when frozen made part of the Parishes to which they are opposite for the purposes mentioned in this clause.

XV. *And be it further enacted*, That every person keeping a team shall be obliged forthwith on being summoned by the said Surveyors, to send his team with a competent driver to work in such manner as the said Surveyors shall direct, and on any such person neglecting to send his team, and a good driver, or not performing such reasonable work as the said Surveyors shall direct, the owner of the said team shall forfeit the sum of *eight shillings*.

A Teams with competent drivers to be sent when summoned by the Surveyors under the penalty of eight shillings.

XVI. *And be it further enacted*, That the said way shall be marked

Ways to be marked where the Commissioners shall direct with ever-green bushes, and if marks are displaced, Surveyors to summon Inhabitants to replace them.

Persons refusing to pay four shillings.

Fines to be applied for performing the service.

The work required by this clause to be accounted as part of the work required to be done on the highways.

Penalty of 20s. for destroying the marks to be recovered before a Justice of the Peace and levied by warrant of distress.

Winter Roads to be broken in the snow.

Width of sleds to be four feet eight inches from outside to outside of the runners, under the penalty of 20s.

marked in such place as the said Commissioners shall direct, with evergreen bushes erected at the distance of not more than four rods lengthways of the said path from each other, and five feet in height, and on any of the said marks being displaced, the Surveyors shall summon forthwith as many of the nearest inhabitants with their teams as they may judge necessary to replace them; and in case of refusal or neglect every person so offending shall forfeit the sum of *four shillings* for each man and *eight shillings* for each team for each day so summoned. *Provided*, when the public Roads are on the bank of the river, the said path shall be marked on the river. The said fines and forfeitures to be recovered by complaint to a Justice of the Peace, as in case of refusal to labour on the Highways, and to be appropriated by the Commissioners towards performing the said service. *Provided always*, that the number of hours which any person shall work in pursuance of the directions of this clause, shall be deducted from and allowed as a part of the number of hours he is obliged by law to work upon the Highways.

XVII. *And be it further enacted*, That if any person shall wilfully cut, or take down, or destroy any of the bushes so to be erected by virtue of this Act, he shall forfeit and pay the sum of *twenty shillings*, upon conviction before any one of His MAJESTY'S Justices of the Peace, upon the oath of one or more credible witness or witnesses, to be levied by warrant of distress and sale of the offenders goods, rendering the overplus (if any) after deducting the costs and charges, to the offender, one half of the said forfeiture to the use of the Poor of the Town or Parish where such offence shall be committed, the other moiety to him or them who shall inform and sue for the same; and for want of such effects to levy on, the offender or offenders shall be imprisoned for a time not exceeding six days.

XVIII. *And be it further enacted*, That the said Surveyors of the Highways by the direction of the Commissioners shall have full power and authority, and they are hereby required, during the winter season, to summon such and so many of the inhabitants having horses, oxen, or teams, in their respective districts as they in their discretion shall think fit, to work at the time and place appointed, on the Highways or public winter Roads, by breaking Roads in the snow with their said horses, oxen, or teams, whenever the depth of snow shall render the same necessary, not exceeding four days in each winter, and at no greater distance than three miles from their own houses. And such inhabitants shall perform the same work, over and above the work which such inhabitants are liable to perform upon the Highways, Roads, and Bridges, in and by this Act.

XIX. *And be it further enacted*, That all sleds made use of for the purpose of carrying, or transporting wood, hay, or other heavy materials, shall not be less than four feet eight inches in width from outside to outside of the runners, and whoever shall make use of any ox or horse sled of less dimensions, and be thereof convicted by the oath of one or more credible witness or witnesses, before any of His MAJESTY'S Justices of the Peace,

or on the view of such Justice, shall be fined in the sum of *twenty shillings*; the same to be levied by distress and sale of the offenders goods and chattels, by warrant under the hand and seal of such Justice; rendering the overplus (if any) after deducting the costs and charges of such distress and sale, to the offender, which fines shall be paid and appropriated in like manner with other penalties mentioned in this Act. And it shall be the duty of all Commissioners and Surveyors of Highways and Constables in the respective Parishes, to prosecute all offences and breaches of this clause of the Act. *Provided always*, that nothing herein before contained shall be construed to extend to any sled a man may use upon his own farm only, or to any bob sled, or single ox or horse sled, or pleasure sleigh drawn by one or more horses:

XX. *And be it further enacted*, That no horse sled or sleigh, shall be drawn on the Highways or public Roads of this Province, unless the same shall be furnished with one or more bell or bells for each horse, drawing such sled or sleigh, to be fastened to such sled or sleigh, or to the harness thereof, so as distinctly to be heard, under the penalty of *five shillings* for every offence, to be recovered from the owner or driver thereof, in the manner and to the uses last before mentioned.

Sleds and sleighs to be furnished with bells under the penalty of 5s.

XXI. *And be it further enacted*, That the respective Commissioners of Highways shall at the first sitting of the Court of general Sessions of the Peace in the respective Counties in each year, deliver into the Clerk of the Peace, to be by him filed in such Court, the several and respective accounts of the labour done on the Highways so to be given them by the said Surveyors, and also an account with proper vouchers of all sums of money received by them for fines or forfeitures accruing by virtue of this Act, and the purpose for which such sums shall have been expended; and if such sums or any part thereof remain in their hands, they shall pay the same into the hands of the County Treasurer, to be disposed of by the order of the Justices, or the major part of them, in their general Sessions, for the making, repairing, and amending the Roads, Highways, public Streets, and Bridges in the district of the Parish where such money was forfeited. And if any Commissioner shall neglect or refuse to deliver in such accounts or any or either of them to the Clerk of the Peace as aforesaid, he shall forfeit and pay for every offence the sum of *four pounds*, to be recovered before two Justices of the Peace in such County respectively, to be paid into the hands of the Treasurer, and applied in the manner herein before mentioned, and shall also be subject to an action of debt to be brought by and in the name of the Treasurer of such County for any sum so remaining in his hands.

Commissioners to account to the Courts of Sessions for monies received, under penalty of 4l.

XXII. *And be it further enacted*, That the Commissioners appointed by virtue of this Act shall not be required to do any work on the Highways, and that the Surveyors shall not be required to superintend the work more than six days; and in all cases where Surveyors are wanted for a greater number of days, the Commissioners shall pay them at the rate of *five shillings* per day.

Commissioners not required to work.— Surveyors to superintend the work six days, and where wanted for a longer time to be paid 5s. per day.

day out of the monies voluntarily paid into their hands or collected for fines by virtue of this Act.

Prosecutions for penalties to be brought within six months.

XXIII. *And be it further enacted,* That no prosecution or suit for the recovery of any of the penalties mentioned in this Act, shall be brought or instituted after the expiration of six months from the time of committing the offence intended to be prosecuted: *Provided nevertheless,* that nothing in this Act shall be construed to extend to prevent those intrusted with public money, by virtue of any of the herein after recited or any other Acts, from being held accountable for all monies so received by them.

Former Laws relating to Highways suspended.

XXIV. *And be it further enacted,* That an Act made and passed in the twenty-sixth year of His MAJESTY'S Reign, intituled "An Act for laying out, repairing and amending Highways, Roads and Streets, and for appointing Commissioners and Surveyors of Highways, within the several Towns and Parishes in this Province," also an Act made and passed in the thirty-first year of His MAJESTY'S Reign, intituled an Act in addition to and in amendment of an Act, intituled, "An Act for laying out, repairing and amending Highways, Roads and Streets, and for appointing Commissioners and Surveyors of Highways within the several Towns or Parishes in this Province," be, and the same are hereby suspended for the term of two years, or during the operation of this Act.

This Act not to extend to the City of Saint John.

XXV. *And be it further enacted,* That nothing in this Act contained, shall extend to the City of *Saint John*, or be construed to abridge, or diminish the rights, powers and privileges of the Mayor, Aldermen and Commonalty of the said City, as granted to them by the Charter of the said City, any thing herein contained to the contrary thereof in any wise notwithstanding.

Limitation.

XXVI. *And be it further enacted,* That this Act shall continue and be in force two years and no longer.

\*\*\*\*\*

CAP. VII.

An ACT to provide for the more easy partition of Lands in co-parcenary, joint-tenancy, and tenancy in common. Passed the 14th of March, 1810.

Vide Eng. Stat. 8 & 9. Will. 3. c. 31. and Laws of N. S. 7 & 8. Geo. 3. c. 2.

Preamble.

WHEREAS the proceedings upon writs of partition between co-parceners, joint-tenants, and tenants in common are tedious, chargeable and often times ineffectual, by reason of the difficulty of discovering the persons and estates of the tenants of the lands, tenements, and hereditaments to be divided, and the defective or dilatory executing and returning of the process of summons, attachment, and distress, and other impediments in making and establishing partitions, by reason of which divers persons having undivided parts or purparts may be greatly oppressed and prejudiced, and the premises may be wasted and destroyed,

destroyed, or lie uncultivated and un-manured, so that the profits of the same may totally or in a great measure be lost, for remedy whereof:

*I. Be it enacted by the President, Council, and Assembly, That* upon the petition of any one or more co-parceners, joint-tenants, or tenants in common to the Supreme Court, praying a division of the lands in which they may be interested to the proprietors in severalty, according to their respective shares and rights, it shall and may be lawful for the said Court to examine the title of the petitioners preferring such petition, and the quantity of their respective parts and purparts; and accordingly as they shall find their respective rights, parts, and purparts to be, to award a writ of partition as nearly as may be in the form for that purpose established in the register of judicial writs; and directed to the Sheriffs of the several and respective Counties in this Province, to be executed by them respectively in the presence of two of the Justices of the Peace in their several and respective Counties, in manner following, that is to say, that in assigning the shares in severalty in virtue of such writ of partition, the lands actually occupied and improved shall be set off and assigned to all such proprietors respectively, who shall have so occupied and improved the same to the extent of their several and respective rights and shares therein; and that in assigning the rights to lands unimproved, after division thereof into shares according to the number of grantees in each Grant, Deed, Will, or other conveyance, or of the persons intituled to such lands as co-heirs or co-parceners in any manner whatsoever, each number shall be written on a separate paper, which papers shall be rolled up and placed in a box, from which each grantee present shall, in the order in which he is named in the Patent, Grant, Deed, Will, or other conveyance, or by seniority in cases of co-heirs, or co-parceners, as aforesaid, draw out one of the said papers in the presence of the Jury summoned by the said Sheriffs respectively by virtue of such writ; and the number so drawn shall be expressed in the Inquisition to be found by such Jury, and accordingly assigned by such Sheriffs and Justices respectively in their return of such writ of partition, and shall be confirmed by the judgment of the said Court, and the said Sheriffs respectively are hereby required to give due notice to the tenants or occupiers of the lands respectively, or if they cannot be found, to the wife, son, or daughter, being of the age of twenty-one years and upwards, of the tenant or tenants, or to the tenant in actual possession by virtue of any estate of freehold, or for term of years, or uncertain interest, or at will, of the lands, tenements, or hereditaments whereof the partition is demanded, forty days before any such Sheriff shall proceed to execute the said writ of partition, and if it shall appear to the said Court, upon return of any such writ of partition, by the affidavit or affidavits of one or more credible person or persons that such notice shall have been given, and if it shall so appear that any of the persons notified neglected to appear, judgment shall be given by default as against them, and a final judgment for partition shall be given against such persons as were present at the time of executing

*vid. 31. c. 9*  
*Sicut Fe*  
*& Senon*  
*Com. a*  
*compel*  
*to ma*  
*partit*

Upon petition of any one or more co-parceners, joint-tenants, or tenants in common, the Supreme Court may examine the title & shares of the petitioners, and award a writ of partition directed to the Sheriff, to be executed in presence of two Justices of the Peace of the County.

In assigning the shares, the lands actually occupied and improved to be assigned to the proprietors, who shall have occupied and improved the same. Unimproved lands to be divided into shares according to the number of persons intituled, and the numbers to be written on separate papers, and drawn for by the grantees in the order in which they are named in the grant, &c. or by seniority in cases of co-heirs or co-parceners, in presence of the jury; the number so drawn to be accordingly assigned.

Sheriffs to give notice to the tenants, or if they cannot be found to the wife, son or daughter (being of age) of the tenant, forty days before the execution of the writ.

If it appear to the Court upon the return of the writ, by affidavit, that persons so notified neglected to appear, judgment shall be given by default against them, and final judgment against those who were present.

If the persons against whom judgment shall be given by default, do not at the term next after being notified of the judgment, apply to the Court and shew a good and probable matter in bar, judgment to be made final, and conclude all persons after notice.

ting such writ, and if any persons against whom the judgment shall be so given by default shall not, at the term of the Supreme Court next after serving them respectively with notice of the said judgment; apply to the said Court by motion, and shew a good and probable matter in bar of the said partition, the said judgment by default shall be confirmed, and final judgment entered; which shall be good and conclude all persons whatsoever after notice as aforesaid, whatever right or title they may have or may at any time claim to have in any of the lands, tenements, and hereditaments mentioned in the said judgment and writ of partition, although all persons concerned may not be named in any of the proceedings, nor the title of the tenants truly set forth.

II. *Provided nevertheless*, That if the tenants or persons concerned, admitting the title, parts and purparts of the petitioners, shall shew to the Court any inequality in the partition, the Court may award a new partition to be made in presence of all persons concerned, if they will appear, notwithstanding the return and filing upon record the former, which said second partition returned and filed shall be good and firm forever against all persons whomsoever, except infants, femes covert, and persons of non-sane memory, who may have a new partition upon shewing a good and probable matter in bar.

Tenants concerned, shewing any inequality in the partition, the Court may award a new partition, which shall be good against all persons excepting infants, femes covert, and persons of non-sane memory, who may have a new partition upon shewing a good and probable matter in bar.

The like relief for persons absent from the Province.

In second partition, no proprietor shall be devested of lands improved under the first partition.

Provided, that all persons absent from the Province may, within one year after such judgment of partition publicly notified in the Royal Gazette three weeks successively, by their agents or attornies, apply to the said Court and shew a good and probable matter against the said partition, in which case the said Court may award such new partition and judgment as aforesaid, which shall conclude such absent persons, and all others claiming and deriving title under such Patents, Grants, Deeds, Wills, or other conveyances, or as co-heirs, or co-parceners as aforesaid, to the lands of which the said partition shall be made as aforesaid.—

*Provided likewise*, that in such second writs of partition, no lands that shall have been built upon, ploughed or otherwise improved *bona fide* by the proprietor, intitled under the former judgment of partition, shall be devested out of such proprietor, but that the equality of partition shall be made out of the unimproved lands.

III. *And be it further enacted*, That no plea in abatement shall be admitted or received in any suit for partition, nor shall the same be abated by reason of the death of any tenant, and that in all cases where the former judgment shall upon such application or appeal as aforesaid be confirmed; the person so appealing shall be awarded to pay costs.

No plea in abatement to be admitted.

Appellant to pay costs where the first judgment is confirmed.

IV. *And be it further enacted*, That the respective Sheriffs and all Justices of the Peace within their respective Counties, shall

Sheriffs, &c. to give due attendance for

shall give due attendance to the executing of such writ of partition, unless reasonable cause be shewn to the Court upon oath, and there allowed of, or otherwise be liable every of them to pay unto such petitioner or petitioners, such costs and damages as shall be awarded by the Court, not exceeding *five pounds*, for which such petitioner or petitioners may bring his, her or their action in the said Court; and the said Court shall award what each person shall receive, having respect to the distance of the place from their respective habitations, and the time they must necessarily spend about the same; to be assessed, levied, collected and paid in the manner herein after mentioned.

executing writs of partition,

or be liable to costs and damages not exceeding 5l.

V. *And whereas*, The usual method of executing writs of partition by the Sheriffs summoning the Jury to attend on the lands, in order to view and make division of the same, may be often times attended with an expence equal to or exceeding the value of the premises, and in many cases be very difficult, if not impracticable from the nature, situation, and large extent of the lands to be divided.

*Be it further enacted*, That it shall and may be lawful for the respective Sheriffs upon receiving any writ of partition for dividing any lands, to proceed to the execution thereof in any place within the County in which the lands shall be; by a Jury of the said County; who shall accordingly make a division of the same agreeably to the bounds expressed in the Patent, Grant, Deed, Will, or other conveyance, or otherwise howsoever, and the best information that can be procured of the value, nature; and quality of the lands; and such division, so made, shall be as valid and effectual, to all intents and purposes whatsoever; as if the same had been made on the lands to be divided by virtue of such writ. *Provided*, that the said division be made in every respect agreeably to the directions of this Act.

Partition may be made at any place within the County, provided it be done conformably to the provisions of this Act.

VI. *And whereas*, difficulties may arise in the recovery of the charges and expences attending the executing of writs of partition unless the same be provided for by Law. *Be it further enacted*, that all accounts of charges and expences which may hereafter arise for the obtaining and executing of writs of partition for the division of lands in any County in this Province, until final judgment thereon, together with the charges of Surveying the said lands, and all other incidental expences relative thereto, shall be laid before the said Supreme Court, and when the same shall have been allowed by the said Court, two or more persons shall be appointed by the said Court to assess the amount thereof in due proportion on the several shares allotted to each and every proprietor, and the same shall be levied out of the profits and other goods and chattels thereon, or belonging to each proprietor respectively, or to the person in possession of the respective shares or any part thereof, and shall be paid to the person or persons appointed by the said Court to collect and receive the same.

Charges & expences of partition to be laid before the Supreme Court;

and assessed on the several shares and levied out of the profits of the land or the goods of the proprietor or possessor, and paid to a receiver appointed by the Court.

VII. *And be it further enacted*; That if any proprietor or other person in possession of any land allotted and assigned as

In case of refusal or neglect to pay the assessment, the same to be levied by warrant of distress.

aforsaid; shall refuse or neglect to pay the sum assessed as his dividend or proportion of the charges aforsaid, it shall and may be lawful for any one of His MAJESTY'S Justices of the Peace, on complaint of the collector and receiver appointed as aforsaid, to issue a warrant of distress and sale of the delinquents goods and chattels, for the recovery of the sum so assessed with the charges of prosecution:

VIII. *And be it further enacted,* That in case no person be

If no person be resident on the land or non-resident proprietor do not pay the assessment,

resident on any lands allotted and assigned as aforsaid, nor any goods and chattels thereon, whereout the sum due as aforsaid may be levied, and any non resident proprietor shall neglect or refuse to pay his or her proportion of any such assessment made as aforsaid, it shall and may be lawful upon the petition of such collector and receiver as aforsaid to the said Supreme Court, setting forth such refusal or neglect, to direct a sale to be made at public auction to the highest bidder, of so much of such non resident proprietor's lands or timber thereon as shall be sufficient to pay his or her proportion of such assessment, together with the charges arising from such sale, and good and sufficient Deeds of conveyance of the land so sold, to be made and executed, by and in the name of the Sheriff of the County, in which such lands may respectively lie, reasonable means having been previously used by the said Court, according to its discretion, for the ascertaining of such proprietor, and for the enabling him, by due notice, to prevent the necessity of such sale, by satisfying the said charges and expences, with the costs attending such Inquiry and notice as aforsaid.

the Supreme Court, upon petition of the receiver, may order a sale of so much of the land or the timber thereon as shall be sufficient to pay the same with the charges,

and deeds to be executed in the name of the Sheriff, reasonable means having been first used to notify the proprietor.



CAP. VIII.

An ACT in addition to the Act to prevent the encumbering or filling up of Harbours. Passed the 14th of March, 1810.

WHEREAS in and by an Act, made and passed in the thirty-third Year of His MAJESTY'S Reign, intituled "An Act to prevent the encumbering or filling up of Harbours," no person is appointed to sue for the penalties therein mentioned.

*BE it therefore enacted by the President, Council, and Assembly,* That it shall be the duty of the Port Wardens of the respective Ports, in which such offences may be committed, to sue for, and prosecute for the recovery of the said penalties, and any one of such Port Wardens is hereby authorised and required to prosecute for such penalties, and when recovered to apply the same in manner, as in and by the said Act is directed.

CAP. IX.

Preamble.  
*Repealed by  
 act 52<sup>o</sup> Geo.  
 3. cap. 12.*

Port Wardens appointed to prosecute for penalties.



## CAP. IX.

An ACT for better regulating the Militia in this Province. Passed the 14th of March, 1810.

**W**HEREAS a well regulated Militia in this Province will at all times tend, not only to the security and defence <sup>Preamble.</sup> thereof, but to the honor and service of His MAJESTY; and whereas in times of imminent danger either by hostile invasion or attack made or threatened to be made on any part of this Province, it may be expedient and necessary that the Militia of the several and respective Counties, or a part thereof, should be drawn out and embodied, and ordered into actual service; in which case it will become requisite that due subordination should be observed: And whereas the Law now in force is inadequate to these important purposes.

I. *Be it enacted by the President, Council, and Assembly, That* an Act made and passed in the forty-eighth year of His MAJESTY's reign, intituled "An Act for the greater security of this Province, by the better regulating the Militia thereof," and also an Act made and passed in the forty-fifth year of His MAJESTY's reign, intituled "An Act for the better regulating the Militia of this Province," and the Act, in addition to the said Act, made and passed in the forty-seventh year of His MAJESTY's reign, intituled "An Act in addition to an Act intituled an Act for the better regulating the Militia of this Province," be; and the same are hereby repealed, saving nevertheless the right of recovery of such fines and penalties as may have been incurred by the said first mentioned Act. <sup>Former Acts repealed.</sup>

II. *And be it further enacted, That* every male white inhabitant or resident within this Province from sixteen to sixty years of age (excepting such as are herein after excepted), shall be enrolled in and be liable to serve in the Militia; and the Militia shall be formed into Regiments by Counties: and if any County shall be sufficiently populous to admit of the Regiment being subdivided into two or more Battalions, it shall be lawful for the Governor or Commander in Chief to subdivide such Regiment into Battalions, and to affix the limits of the district composing such Battalions; and each Company in such Regiment or Battalion shall consist of not more than sixty rank and file, to be commanded by one Captain and two Subalterns; and the extent of the districts of the Companies shall be determined by the Commanding Officer for the time being of the Regiment or Battalion to which they belong: And all Captains or Commanding Officers of Companies are hereby required to take due care to enrol in a Book to be kept by them for that purpose the names of those persons who are liable to serve as aforesaid, within their respective districts: *Provided always,* that in insular and remote situations where the number of persons in the Island or neighbourhood liable to serve in the Militia exceeds the number of sixty, but does not exceed the number of eighty, the whole may be enrolled in one Company. *And provided also,* that the Members of His MAJESTY's Council, Members of the Assembly, <sup>Male white inhabitants from 16 to 60 years of age to be enrolled.</sup> <sup>Militia to be formed into Regiments by Counties & in Counties sufficiently populous may be subdivided into Battalions.</sup> <sup>Companies not to exceed sixty rank and file, with one Captain and two Subalterns.</sup> <sup>Districts of Companies to be determined by the Commanding Officer of the Regiment or Battalion.</sup> <sup>Officers commanding Companies to enrol persons liable to serve.</sup> <sup>In insular and remote situations where the number of men liable to serve, does not exceed eighty, the whole may be formed into one Company.</sup> <sup>Persons exempted from being enrolled.</sup> established

established Clergymen, and licensed Ministers of the Gospel, all persons exercising Commissions civil or military under His MAJESTY, Officers on Half-Pay, Supernumerary Militia Officers now in Commission, Officers of His MAJESTY'S Customs, Revenue and Naval Officers, Physicians and Surgeons, one Miller to each Grist Mill, and one Ferryman to each established Ferry, shall be exempted from being enrolled as aforesaid: *And provided also*, that every person professing himself to be of the people called Quakers, and producing to the Commanding Officer of the Regiment or Battalion of the district in which he resides a certificate, signed by two principal people of that persuasion, that such person has been deemed and allowed to be one of the same persuasion, for at least one year before the date of such certificate, shall in like manner be exempted from being enrolled as aforesaid.

Quakers, producing a certificate, exempted.

III. *And be it further enacted*, That it shall be the duty of

Captains, when required, to make returns of their Companies and of arms, &c. to the commanding Officer of the Regiment or Battalion.

Officers commanding Regiments to make returns to the commander in chief.

each and every Captain or Commanding Officer of a Company, to furnish to the Officer Commanding the Regiment or Battalion to which he belongs, so often as he shall be thereunto required, a fair written roll or return of his Company, and also a return of the state of the arms and accoutrements of his Company, and it shall be the duty of the Officers Commanding the several Regiments, to furnish from time to time to the Commander in Chief or to such person as he may appoint, such rolls, returns, and statements of their several Regiments as may be required.

IV. *And be it further enacted*, That the Captains or Officers

Captains with consent of the commanding Officer of the Regiment to appoint Serjeants, Corporals, Drummers and Fifers.

Persons so appointed refusing to serve, to forfeit 20s.

Commanding Companies shall be, and they are hereby fully empowered, with the consent of the Commanding Officer of the Regiments or Battalions respectively, to nominate and appoint proper persons to serve, as Serjeants, Corporals, Drummers, and Fifers in their several Companies, and to displace them and appoint others in their room as they shall see occasion. And if any person so to be appointed, shall refuse to accept the office to which he shall be appointed, or after having been appointed, shall refuse or neglect to perform such duties as appertain to his office, he shall forfeit for such refusal or neglect and pay the sum of *twenty shillings*, to be adjudged by and before such Captain or Commanding Officer of the Company, and levied by warrant of distress and sale of the offenders goods and chattels: *Provided* that there shall not be appointed to any one Company, more than three Serjeants, three Corporals, one Drummer, and one Fifer, except flank Companies which may have four Serjeants each.

Three Serjeants, three Corporals, one Drummer and one Fifer to each Company, except Flank Companies, which may have four Serjeants.

V. *And be it further enacted*, That every Regiment or Battalion

Militia to be called out by Companies twice a year at such times and places as the commanding Officer of the Regiment or Battalion shall appoint.

shall be called out and rendezvous by Companies, twice in every year for the purpose of training, disciplining, and improving in martial exercises; the times and places of rendezvous to be appointed by the Commanding Officer of the Regiment or Battalion, and arranged on different days or in such manner that the Field and Staff Officers may have an opportunity of attending the several Companies in order to introduce uniformity in the manœuvres

manœuvres and discipline of the Regiment or Battalion; of which ten days notice in writing to which several and respective days of rendezvous and training, be given by the Captain, previous notice shall be given in writing by the Captains or Officers Commanding Companies, at least ten days, which notice shall be posted up by a Non-Commissioned Officer at three of the most public and conspicuous places within the Parish or district of such Company, which notification shall be deemed a lawful and sufficient warning.

VI. *And be it further enacted*, That there shall be an Adjutant appointed to each Regiment and each Battalion in the Province, whose duty it shall be to attend all the places of rendezvous of each Company when called out as aforesaid, then and there to inspect their arms, ammunition, and accoutrements, superintend their exercises and manœuvres, and introduce such a system of military discipline as shall be established by the Governor or Commander in Chief for the time being, and to do and perform such other duties and services suitable for an Adjutant as the Commanding Officer of the Regiment or Battalion shall from time to time order and direct, and that every such Adjutant shall be allowed as a full compensation for all the services he is required to perform by this Act (except when on real service) the sum of *ten shillings* by the day, for every day he shall be actually employed as such, the number of days to be certified by the Commanding Officer of the Regiment or Battalion. *Provided always*, that no one Adjutant be allowed more than *fifteen pounds* in any one year, except the Adjutant of the *Charlotte County Regiment*, who shall not be allowed more than *thirty pounds* in any one year.

VII. *And be it further enacted*, That all persons enrolled as aforesaid, except those above forty-five years of age, shall be drilled by Companies in their respective districts, or where in the opinion of the Officer commanding the Regiment or Battalion that cannot conveniently be done by half Companies, eight days in each and every year, that is to say, four days commencing the last Monday in the month of June, and four days commencing the last Monday in the month of October, in each year, in each and every County, except the Counties of *Saint John, Queen's, and York*, in which the times of such drilling shall be as follows, that is to say, in the City and County of *Saint John*, for four days commencing the last Monday in July, and for four days commencing the last Monday in September; in the County of *Queen's* for four days commencing the last Monday in June, and four days commencing the first Monday in October; and in the County of *York*, for four days commencing the last Monday in June, and for four days commencing the last Monday in September, in each and every year, over and above the number of days directed by the fifth Section of this Act; and such Companies or half Companies shall be drilled under the direction of a Commissioned Officer, by such persons as the Governor or Commander in Chief shall appoint for that purpose.

VIII. *And be it further enacted,* That all persons enrolled as aforesaid, except those above forty-five years of age, shall assemble by Regiments, or Battalions, or detachments thereof, one day in the year, or three days successively, if the Commander in Chief shall so order and direct, for the purpose of training and disciplining as aforesaid, the time and place of which general trainings, shall be as the Commander in Chief shall direct and appoint, in order that an opportunity may be afforded to the Inspecting Field Officer to attend the same: And whenever the Commander in Chief shall deem it necessary to exercise or review any Regiment or Battalion as aforesaid, more than one day, in any one year as aforesaid, the Officers, Non-Commissioned Officers, Drummers, Fifers, and Privates shall be entitled to receive out of the Province Treasury the like pay and allowances for each day more than one, as aforesaid, as is herein after provided for the Militia when on actual service. *Provided always,* that no person shall be obliged to go more than twenty miles from his place of residence to attend any such general training. *And provided also,* that the Commander in Chief (whenever he may deem the Militia of any Regiment, or Battalion, or any part thereof, to be sufficiently trained and disciplined, may, and he is hereby authorised, by order directed to the Commanding Officer of any such Regiment or Battalion to dispense with or lessen so much and such parts of the duties required by this Act as to him may seem meet.

Persons under the age of forty-five to assemble by Regiments, Battalions, or Detachments, one day in the year, or three days successively, if the Commander in Chief shall so order, at such time and place as the Commander in Chief shall direct. If called out more than one day in the year, to be paid.

No person to go more than twenty miles from home to such training.

Commander in Chief may lessen the duties required by this Act.

Commissioned Officers to be drilled.

IX. *And be it further enacted,* That it shall be the duty of the several Officers commanding Regiments or Battalions, to cause the commissioned Officers, under their respective commands, at reasonable and proper times and places apart from their men, to be drilled and instructed as well in the Manual, and Platoon, as field exercise.

X. *And be it further enacted,* That such Non-Commissioned Officers and other fit persons as the Commander in Chief shall in his discretion think proper to employ (and under such regulations and directions as he shall think fit) for the purpose of drilling the Commissioned, Non-Commissioned Officers and Privates in the several and respective Regiments, Battalions, and Companies, at the several and respective times when such Regiments, Battalions, and Companies shall be called out for training and exercise, under and by virtue of this Act, shall be entitled to and receive *four shillings* per day, during the time they shall be so employed, and at the same rate for every fifteen miles travelling in going to and returning from such service, to be paid out of the Treasury of this Province; and in such districts and places, where military drills cannot conveniently be sent, the commanding Officers of the Regiment or Battalions are authorised to employ proper drills, who shall be entitled to the same pay as other drills, to be paid in manner aforesaid, which service and travel of such persons so to be employed, shall be certified by the commanding Officer of the Regiment, Battalion, or Company, in the drilling of which, such persons shall be respectively employed.

Persons appointed to drill the Militia to be paid four shillings per day during the time they are employed, and at the same rate for every fifteen miles travel, the service and travel to be certified by the commanding Officer of the Regiment, Battalion, or Company.

XI. *And be it further enacted,* That every person enrolled as aforesaid; who shall neglect to appear agreeably to the provisions of this Act, when called upon, shall pay for each neglect, on each and every of the days herein before required of him to attend *ten shillings*; and upon neglect or refusal to pay the same to any Non-Commissioned Officer, having an order to receive the same, signed by the Officer commanding the company to which such delinquent belongs, the same shall be recovered before any one of His MAJESTY'S Justices of the Peace, or the Clerk's Court of the City of *Saint John*, with costs at the suit of such Commanding Officer, in the same manner as other sums are by the Act for the recovery of small debts, and by him paid into the hands of the Quarter-Master of the Regiment or Battalion.

Persons neglecting to appear when called on to pay ten shillings, and upon refusal to pay the same to a non-commissioned Officer, it shall be recovered before a Justice of the Peace or Clerk's Court of St. John, with costs and paid to the Quarter-Master.

XII. *And be it further enacted,* That every person enrolled as aforesaid, shall at all times when called out as aforesaid, appear with such arms, ammunition, and accoutrements as have been or may be hereafter issued to him by Government, or with arms, accoutrements and ammunition, of his own, equally sufficient, in complete order, and for appearing without such arms, accoutrements, and ammunition, or appearing with a part, and not the whole, or with any of them, which in the opinion of the Field Officer, if present, or otherwise of the Commanding Officer of the Company, are not in good and serviceable order, such person shall forfeit, and be forthwith ordered by the Field Officer, or, if none present, the Officer commanding the Company, to pay a sum not less than *two shillings*, nor more than *ten shillings*, and for neglect to pay the same, to the commanding Officer of the Company, within twenty-four hours after the parade is dismissed, the same shall be by an order of the same commanding Officer directed to either of the Non-Commissioned Officers of the Company levied (with the like fees as Constables may receive) upon the goods and chattels of the delinquent; and for want of goods and chattels whereon to levy the same, the said delinquent shall by warrant under the hand and seal of such commanding Officer of the Company be committed to the County Gaol, there to remain for any term not exceeding twenty-four hours, and the keeper of such Gaol is hereby required to receive such delinquent, and keep him safely during the time specified in such Warrant, and then discharge him upon his paying the customary Gaol fees, together with such fees as the Non-Commissioned Officer may be entitled to receive as herein before mentioned.

Persons called out to appear with arms, ammunition and accoutrements in complete order, and for appearing without or with only a part, to forfeit not less than two nor more than ten shillings, which if not paid within twenty-four hours after the parade is dismissed, shall be levied by the commanding Officers warrant directed to a Non-Commissioned Officer.

For want of goods to be imprisoned not exceeding 24 hours.

XIII. *And be it further enacted,* That the Officer commanding any Regiment or Battalion, shall once in every year, and as much oftener as he shall judge necessary (besides the usual days of training) order an inspection of arms, accoutrements, and ammunition of the several Companies under his command, to be made at one and the same time, by the Subalterns of each Company (each taking a part of the Company, as the same shall be for that purpose, divided by the Captain or Officer commanding it,) and calling on each and every man of the Company, at the usual place of his abode, and that each Subaltern shall

Officers commanding Regiments or Battalions to order inspections to be made by the Subaltern Officers of the arms, accoutrements and ammunition of the several Companies at the places of abode of the men.

Returns to be made to the Officer commanding the Company. shall make an exact return to the commanding Officer of the Company, of such arms, accoutrements, and ammunition, describing the state and condition thereof, and every person required by Law, to be provided with arms, accoutrements, and ammunition, who shall at such inspection, refuse to shew his arms, accoutrements, and ammunition, to the Officer, or have such arms in unserviceable condition, or out of order, or shall be deficient in any of the accoutrements or appurtenances beforementioned, shall forfeit and pay, for each deficiency, the like sum, as if such deficiency had happened at a muster or training, to be assessed by the commanding Officer, of such Company, who shall issue his order for the payment thereof, directed to a Non-Commissioned Officer of the Company; and upon non-payment thereof upon demand the same to be recovered in the same manner as is provided in the next preceding Section.

Any person refusing to shew his arms, &c. or having such arms out of order, or shall be deficient in any of the accoutrements &c. to forfeit the like sum as if such deficiency had happened at a muster or training, to be recovered in like manner.

Non-Commissioned Officers or privates, guilty of drunkenness, or misbehaving at any muster or training, to be confined during the muster, and subject to a fine of not more than ten shillings.

XIV. *And be it further enacted,* That if any Non-Commissioned Officer or private, of any Company, shall be guilty of drunkenness, contemptuous behaviour, disobedience of orders, or shall otherwise misbehave himself at any muster or training, it shall and may be lawful in any such case for the Field Officer, if present, or if not present, for the Officer commanding the Company, to order such person or persons so offending, to be confined under a guard, during the time of such muster or training and also to impose a fine on such offender or offenders, not exceeding the sum of *ten shillings*, to be recovered as other fines and forfeitures are directed to be recovered in the twelfth Section of this Act.

Persons wilfully interrupting any Company or detachment of Militia at exercise may be confined during the time of exercise,

XV. *And be it further enacted,* That if any person shall wilfully interrupt, any company, detachment, battalion, or regiment of Militia at exercise or muster, or any duty herein before prescribed, it shall and may be lawful for the Officer commanding such Company, detachment, battalion, or regiment, to confine such person during the time of such exercise or muster, (if he shall think it necessary) to prevent the continuation of such insult, or wilful interruption, and the persons so offending, shall forfeit and pay the sum of *twenty shillings*, for each and every offence, to be recovered on conviction, before any one Justice of the Peace, and by him paid into the hands of the Quarter-Master of the Regiment.

and shall forfeit 20s. to be recovered before a Justice of the Peace, and paid to the Quarter-Master.

Captains or Subalterns guilty of improper behaviour at any general muster to be forthwith tried by a Court Martial consisting of two Captains and three Subalterns,

XVI. *And be it further enacted,* That whenever any general muster or training shall be ordered in pursuance of this Act, and any Captain or Subaltern Officer of any regiment, battalion, or detachment thereof, shall be guilty of disobedience of orders, or contemptuous or improper behaviour, during such muster or training, or if at any Company muster, or training, any Subaltern of such Company shall be guilty of disobedience of orders, or contemptuous or improper behaviour during the same, it shall and may be lawful for the commanding Officer of such regiment, battalion, or detachment, to order a Court Martial forthwith on such Officer so misbehaving, which Court shall consist of two Captains and three Subalterns belonging to the same regiment, or battalion, and in case such charge is proved, it shall be their duty

duty to report their proceedings to the Colonel, or commanding Officer of the regiment or battalion, and if the sentence of such Court Martial shall be approved by the Commander in Chief of this Province, such Officer so found guilty, shall be dismissed.

who shall report to the Colonel, and if the sentence be approved by the Commander in Chief, the offender shall be dismissed.

XVII. *And be it further enacted,* That it shall be the duty of the commissioned Officers of the several Companies to attend all the trainings and musters of their respective companies; and of all the commissioned Officers of the several regiments or battalions, to attend the trainings and musters of their respective regiments or battalions, and at all times to appear equipped, with sufficient swords and belts, and for each and every neglect to appear, or appearing without such sword or belt, the Officer so neglecting, shall forfeit and pay the sum of *twenty shillings*, to be recovered before the commanding Officer of the regiment or battalion to which he belongs.

Commissioned Officers to attend all trainings proper equipped under the penalty of 20s.

XVIII. *And be it further enacted,* That it shall and may be lawful for the Officer commanding any regiment or battalion of Militia, to appoint a Serjeant-Major, Quarter-Master-Serjeant, and Clerk, for such regiment or battalion, who are hereby made liable to be tried by a Regimental Court Martial for disobedience of orders, or contemptuous and improper behaviour, which said Court Martial shall be constituted as herein before mentioned, and shall have power to punish by fine, or imprisonment in the County Goal, such fine not exceeding *forty shillings*, or imprisonment ten days. *Provided always, and be it further enacted,* that no sentence of any such Court Martial, shall be put in execution until approved by the commanding Officer of such regiment or battalion; and the Serjeant-Major, Quarter-Master-Serjeant, and Clerk, so appointed shall be exempted from all balloting for actual service.

Serjeant-Major, Quarter-Master-Serjeant and Clerk, to be appointed, who are liable to be tried and punished by a Court Martial.

XIX. *And be it further enacted,* That the Quarter-Master of every regiment or battalion, shall before he commences the duties of his Office, under this Act, give bond to His MAJESTY, with two sufficient sureties in the penal sum of *two hundred pounds*, for the faithful discharge of such duties, and for his duly accounting for and applying all monies he may receive, by virtue of this Act, and for all arms and accoutrements, provisions and stores, he may receive as Quarter-Master of such regiment or battalion; which bond shall be taken by the commanding Officer of such regiment or battalion, and lodged by him in the Secretary's Office, of the Province, and that each Quarter-Master, shall be allowed in his general account of Monies, ten per cent, for all sums received and paid over by him; this allowance to cease to be made to any Quarter-Master who may be on actual service and in receipt of full pay.

Quarter-Masters to give Bonds for faithful discharge of their duty.

Allowed ten per cent, for monies received.

XX. *And be it further enacted,* That the Captain or Officers commanding Companies, shall, on or before the first day of June, in each year, make out and transmit to the Officer commanding the regiment or battalion, lists of all persons residing within the districts of their companies respectively, who are by the second Section of this Act, exempted from being enrolled in

List of exempts to be transmitted by Officers commanding Companies to the commanding Officer of the regiment or Battalion, and entered by the Clerk in a book.

Exempts to pay to  
the Clerk 20s. a  
year.

the Militia, specifying the ages of such persons, and the causes of their respective exemptions; which lists shall be entered by the Clerk of the regiment or battalion, in a book to be by him kept for that purpose; and that all persons so exempted, (one ferryman to each established ferry excepted) shall on or before the first day of September, in each and every year, pay to the said Clerk, *twenty shillings*, and if not then paid, the same to be recovered with costs, by and at the suit of such Clerk, in the like manner as is provided by the eleventh Section of this Act, and when received by him, the same to be forthwith paid into the hands of the Quarter-Master of the regiment or battalion.

Exempts may ex-  
cuse themselves from  
paying by enrolling  
themselves.

*Provided always, and be it further enacted*, that any person liable as aforesaid, to pay the said sum of *twenty shillings*, shall be excused from paying the same, by enrolling himself in the Company of Militia of the district in which he resides: And that when such person has so enrolled himself, he shall be, and he is hereby made liable to do and perform all and singular the duties required of other men belonging to the Company, and under and subject to the same penalties and forfeitures in every respect.

Ferry-men to convey  
Militia-men going  
on duty over their  
Ferries, free of ex-  
pence.

**XXI.** *And be it further enacted*, That the Ferry-men excepted by the next preceding Section, shall upon all occasions, when the Militia are called out by battalion or detachment for general training, carry over their respective ferries, the said Militia, and each and every of them in going out and returning home, without any demand for ferryage whatever, under the penalty of *ten shillings*, for each and every offence, to be recovered by the party complaining before any one of His MAJESTY'S Justices of the Peace, upon the oath of one credible witness.

Arms to be marked.

**XXII.** *And whereas*, arms and accoutrements have been issued from His MAJESTY'S stores, for the use of the Militia in several parts of this Province, and it is necessary to provide for the the security of those arms and accoutrements, and such as may hereafter be issued. *Be it further enacted*, that such arms so issued, or which may hereafter be issued, shall be branded distinctly on the broad part of the butt with the letter M and the name of the County to the Militia of which they are issued, also with a capital letter to denote the Company to which they belong, and a number to distinguish each Firelock to its owner, such brand to be provided by the Commanding Officer of the Regiment or Battalion, and all Captains or other Officers commanding Companies shall be, and they are hereby made responsible (except in case of unavoidable accident) for the safe keeping and return (if called for) of such arms and accoutrements as were issued to the men in their respective Companies, or may hereafter be so issued; and such Captains or Officers commanding Companies are hereby empowered and required to take into their possession all such arms and accoutrements, except where the person to whom they have been, or shall be issued, shall give bond with sufficient surety to our Sovereign Lord the King, in the penalty of *five pounds*, conditioned for the safe keeping, and return of the said arms and accoutrements; which bonds so given, shall be lodged with the Clerks of the Peace, in

Captains made re-  
sponsible for arms,  
and empowered to  
take the same into  
their possession un-  
less the persons to  
whom they are issued  
will give bonds.

the



the respective Counties, who are hereby required to receive and file the same in their respective offices, which person so giving bond as aforesaid, shall be entitled to keep possession of such arms and accoutrements while he continues in the same Company; and in case of the removal of any such person from such Company, his arms and accoutrements shall be returned to the Captain or other Officer, commanding the said Company, who shall give a receipt for the same, to the person so delivering the said arms: And if any person having such arms and accoutrements in his possession, shall vend, pledge, or exchange the same, or any part thereof, (without leave of the Officer commanding the Company to which such person belongs,) or shall convey, or cause the same, or any part thereof, to be conveyed out of the Province, or shall convey, or cause the same to be conveyed on board any boat, ship, or vessel, with intent to have the same carried out of the Province, or if the master of such boat, ship, or vessel, shall wilfully receive into his boat, ship, or vessel, any such arms or accoutrements so intended to be conveyed out of the Province, or if any person shall purchase the said arms, every person so offending, shall for each and every offence forfeit and pay the sum of *ten pounds*; to be recovered upon conviction before any two Justices of the Peace, upon the oath of one or more credible witness or witnesses, and levied by warrant of distress and sale of the offenders goods, rendering the overplus, if any, after deducting the costs and charges of such distress and sale, to the offender, one half of which penalty, shall be paid to the person who shall prosecute for the same, and the other half into the hands of the Quarter-Master of the Regiment or Battalion, to which such arms and accoutrements belong: And for want of effects, whereon to levy the said fine of *ten pounds*; such offender shall be imprisoned not exceeding six nor less than three months. And in case the said arms and accoutrements, shall at any time be called for, to be delivered to His MAJESTY'S stores, all deficiencies shall be paid for, out of the Treasury of the Province, excepting such arms and accoutrements, as shall have been lost on actual service against an enemy. *Provided always, and be it further enacted*, that nothing herein contained shall be construed to render void the bonds given for any arms and accoutrements, under and by virtue of the seventh Section of the Act, passed in the Forty-eighth year of His MAJESTY'S reign, now by this Act repealed, but that the same bonds shall be, and remain in full force and effect, as if the same Act had not been repealed or any thing herein contained to the contrary thereof notwithstanding.

Penalty of 10l. for selling, exchanging, or conveying away any arms and accoutrements lent by Government.

In case the arms be called for, to be delivered to the King's stores, the deficiencies to be paid for by the Province.

Bonds given for arms not to be avoided.

XXIII. *And be it further enacted*, That no person who has been, or may hereafter be furnished with arms, accoutrements, and ammunition by government, shall use the same for any other purpose, than that for which they may have been supplied, under a penalty of *ten shillings* for each and every offence; to be recovered before any one Justice of the Peace, in the same manner as prescribed in the next preceding Section, and when recovered to be paid to the person who shall prosecute for the same; and for want of effects whereon to levy the said fine of

Arms lent by Government, not to be used for any other purpose than that for which they may have been supplied.

*ten shillings*, such offender shall be imprisoned not more than four nor less than two days.

*XXIV. And be it further enacted*, That the Governor or Commander in Chief shall be, and he is hereby authorised and empowered in case of any actual invasion, or imminent danger thereof, if he, in his discretion, shall think it necessary or expedient to call out the Militia of the Province, and the exempts, as described in the second Section of this Act; (established Clergymen, licensed Ministers of the Gospel, Millers and Ferry-men excepted) or any part thereof, into actual service.

Militia may be called out in case of invasion or imminent danger thereof.

*XXV. And be it further enacted*, That in case of any actual invasion or imminent danger thereof, in any County or district, where the Commander in Chief cannot be immediately consulted, the commanding Officer of the Regiment or Battalion of Militia, in such County or district, shall have power (if he, in his discretion, shall think it necessary or expedient) to call out the Militia in such County or district, and the exempts as aforesaid, or any part thereof, into real service: And in case of any such actual invasion, or imminent danger thereof, in any Town, Parish, or Company district, where the commanding Officer of the Regiment or Battalion cannot be immediately consulted, the Officer commanding the Militia in such Town, Parish, or Company district, shall have power (if he, in his discretion, shall think it necessary or expedient) to call out the Militia under his command, and also the exempts as aforesaid, within the same, or any part thereof, into real service: And such Officer last mentioned, shall forthwith report his proceedings, and the reasons and grounds thereof, to the Officer commanding the Regiment or Battalion to which he belongs, who is hereby required in either case forthwith, to dispatch an express to the Commander in Chief for the time being, notifying the danger, and the strength and motions of the enemy.

Where the Commander in Chief cannot be immediately consulted, the commanding Officer of the Regiment may call out the Militia of the County.

Where the commanding Officer of the Regiment cannot be immediately consulted, inferior Officers may call out the Militia under their command, and report to the Col. &c. who is to send an express to the Commander in Chief.

*XXVI. And be it further enacted*, That the Militia, or any part thereof, and the exempts as aforesaid, so called out into real service by virtue of the provisions of this Act, shall and may be ordered to march from one County or part of the Province to another, on any necessary service occasioned by such actual invasion or imminent danger thereof.

Militia on service to march to any part of the Province.

*XXVII. And be it further enacted*, That when the Militia or any part thereof, shall be called into real service, every Officer or person so called into service, is hereby bound and required to yield obedience to all lawful commands of his superior Officers, for mounting guards, erecting works, and other military services, for repelling, resisting, or guarding against the attacks of the enemy, under the penalty of incurring the forfeitures appointed by this Act for disobedience of orders.

Militia on service to obey all lawful commands of superior Officers.

*XXVIII. And be it further enacted*, That whenever the Governor or Commander in Chief, shall direct any part of the Militia, or the exempts as aforesaid, of any, or either of the Counties to be called out as aforesaid, into real service, a draught by ballot

Militia to be draughted for service by ballot.

ballot shall be made from each Company in exact proportion according to the number then fit for duty, which shall be on the oath of the Captain or Commanding Officer of such Company; to the best of his knowledge; if required; of all persons from the age of eighteen to fifty years, which ballot shall take place, and be made in the presence of one or more of His MAJESTY'S Justices of the Peace; or if no such Justice shall be resident near to the place where such ballot shall be made, then and in that case the same shall be made in presence of three or more respectable Freeholders; who are exempted by age from being draughted themselves; and on such occasions all the persons within the County in which any part of the Militia shall be called out as aforesaid, between eighteen and fifty years of age, who are here-<sup>Exempt, to be for- med into a company, and subject to be draughted.</sup> before declared to be exempted from being enrolled in the Militia in manner herein before mentioned (except established Clergymen, and licensed Ministers of the Gospel, one Miller to each Grist Mill, and one Ferryman to each established Ferry) who shall not have joined any Company, shall be formed into a Company by, and under the direction of the commanding Officer of the Regiment or Battalion, and shall be liable to the same draught by ballot as any other Company in such Regiment or Battalion, in proportion to their numbers then fit for duty as aforesaid; and each and every person so draughted, shall go in his own proper person, or find a good and sufficient man in his room; and for his neglect or disobedience herein, he shall be subjected to a fine of *ten pounds*, which if he neglect or refuse to pay, he shall be committed to the nearest County Gaol, where he can be safely kept, by warrant from the commanding Officer of the Regiment or Battalion, or if necessary to his safe custody, be removed to any other Gaol at the discretion of the commanding Officer; where he shall remain three months, or until he pays the said fine, and another man shall be draughted as aforesaid, to march in his place, who shall have half of the said fine, if he shall not refuse or neglect to go, or find a good and sufficient man in his room as aforesaid; but if he shall so neglect or refuse, then he shall be subjected to the like fine, and a further draught shall be made of another man who shall have half of the fine last mentioned, if he shall not neglect or refuse to go, or find a good and sufficient man as aforesaid, and so as often as such case shall happen. *Provided always*, that in case any part of the Militia or exempts as aforesaid, shall be called out more than once, no person who has been once draughted as aforesaid, shall be again draughted, until all the others belonging to the same Company shall have been draughted. *Provided also*, that nothing in this Act shall be construed to extend to oblige the Firemen appointed by the Corporation of the City of *Saint John*, to the two Engines in that City, or Firemen that may be appointed to any Engine that may be hereafter established in any other Town in this Province, not exceeding fifteen men to each Engine, to do duty beyond the limits of the said City or Town respectively. *Provided also*, that if any person called, and duly certified to be a Quaker, shall upon being draughted, refuse to serve or procure a substitute as aforesaid, it shall and may be lawful for the Captain or Officer commanding the Com-<sup>Persons draughted to serve in their own persons, or find good substitutes under the penalty of 10l.</sup> <sup>No person to be a second time draughted till all the others belonging to the same Company shall have been draughted.</sup> <sup>Firemen in St. John, &c. not to do duty beyond the limits of the City.</sup> <sup>Substitutes to be hired for Quakers, who are to pay the expence not exceeding 10l.</sup> pany

pany to which such Quaker belongs, to procure and hire a substitute for him, and at his expence, not to exceed the sum of *ten pounds*, which if he shall refuse or neglect to pay the same, shall and may be recovered before any two of His MAJESTY'S Justices of the Peace, in a summary way, at the suit of the said Captain or commanding Officer of the Company, and levied with costs upon the goods and chattels of such delinquent, or for want thereof, commitment of his person to Gaol, there to remain for three months or until he pays the same. *Provided also,*

That those who have already served in the embodied Militia, and those to be hereafter draughted, shall not be liable to be again draughted, until all the others belonging to the same Company, shall have been draughted.

Persons who have served in the Embodied Militia exempted from draught till all the others of the same Company have been draughted.

Volunteers may be accepted, and to be on the same footing with draughted men.

XXIX. *And be it further enacted,* That whenever the Governor or Commander in Chief, for the time being, shall in consequence of any actual invasion or imminent danger thereof as aforesaid, think it expedient to order a proportion of the Militia of any County to march out of such County on real service; Volunteers who offer themselves for such service, being able of body, in the opinion of the Field Officers of the Regiment or Battalion to which such Volunteers shall belong, shall be accepted, and being so accepted, shall be subject to all the provisions of this Act as though they had been draughted by ballot.

Officers on service may be cashiered by a General Court Martial for disobedience or neglect of duty.

XXX. *And be it further enacted,* That if any Officer, Non-Commissioned Officer, or private of the Militia, or exempts as aforesaid, under arms for real service on a march, or on guard, or that shall be ordered for any of the duties or services herein before mentioned, shall disobey orders, or neglect doing his duty, or shall shew any contemptuous behaviour towards his superior Officer, if an Officer, he shall on conviction thereof before a General Court Martial to be constituted and appointed as herein after directed, be cashiered by the sentence of such Court Martial, if a Non-Commissioned Officer or private, he shall be confined by the commanding Officer of the party or guard, and it shall be lawful for the commanding Officer of the Regiment or Battalion, or of any party or command, not under the degree of a Captain, to order a regimental Court Martial to be forthwith held for the trial of such offender, the said Court Martial to consist of three Commissioned Officers at least, but where they can be had of five, who may give judgment by laying a fine on such offender in any sum not exceeding *forty shillings*, and in addition thereto, if a Non-Commissioned Officers, reducing him to the ranks, at the discretion of the Court, which fine so ordered by the Court Martial, if he neglect or refuse to pay, shall be either stopped out of the pay of such offender, or recovered by warrant of distress and sale of his goods and chattels, under the hand and seal of the commanding Officer of such Regiment or Battalion, or party, and for want thereof, such offender to be imprisoned or subject to hard labour, for a term not exceeding ten days. *Provided always nevertheless,* that no sentence of a Regimental Court Martial, shall be put in execution until approved of by the Officer ordering the Court Martial, and no Officer being the accuser shall be a member.

Non-Commissioned Officers and privates may be confined and tried by a Regimental Court Martial and fined.

Fines may be stopped out of the pay.

No sentence to be put in execution till approved by the Officer ordering the Court.

XXXI. *And be it further enacted,* That if any Officer, Non-Commissioned Officer, or private, shall in the field, upon a march, or in quarters, on actual service, begin, excite or join any mutiny, or knowing of such mutiny, begun or intended, shall not give information thereof, to his commanding or other superior Officer, or shall not when thereunto ordered, use his utmost endeavours to suppress such mutiny, or shall desert the Company or command to which he belongs, or shall disobey orders, if a commissioned Officer, he shall be put under arrest by any superior Officer; if a Non-Commissioned Officer or private, he shall be committed to the next County, or other Gaol, as soon as convenient; by order in writing under the hand of the Officer commanding the Regiment, Battalion, Company, or Detachment to which such person so offending; shall belong, and it shall and may be lawful for the Governor or Commander in Chief of the Province, for the time being; to order a general Court Martial by warrant under his hand and seal, for the trial of such offenders as speedily as the service will admit; which Court Martial shall not consist of a less number than thirteen commissioned Officers of the Militia; and the President of such Court Martial, shall not be under the rank of a Field Officer; and there shall be as many Captains as conveniently may be had, the eldest Subalterns to make up the number; and that such Court Martial shall have power to administer an oath to any witness, in order, to the examination or trial of any of the above offences that shall come before them, and shall also have power to punish with death, or by fine and imprisonment, in proportion to the enormity of the offence, the fine not to exceed *fifty pounds*, nor imprisonment six months. *Provided always,* that no sentence of any Court Martial shall extend to death, unless for desertion to the enemy, for mutiny and sedition, for traitorous correspondence with, or traitorously delivering up to the enemy any Garrison, Fortress, Post or Guard, nor shall the sentence of any general Court Martial, be carried into execution until it has been approved of by the Governor or Commander in Chief, for the time being.

XXXII. *And be it further enacted,* That in all trials by general Court Martial, the President, and every Member thereof, before any proceedings be had, shall take the following oath, and the Judge Advocate is hereby authorised to administer the same, to wit "I (A. B.) do swear, that I will duly administer justice, according to the Laws of this Province now in force, for the better regulating the Militia, without partiality, favor, or affection; and I do further swear that I will not divulge the sentence of this Court, until it shall be approved by the Commander in Chief of this Province, neither will I, on 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 a due course of Law: So help me God!" And no sentence of death, shall be given by any such General Court Martial, unless twelve Officers present, shall concur therein.—  
 And the Governor or Commander in Chief shall have power to appoint any fit person to act as Judge Advocate, at any such  
 General

Mutiny, desertion and disobedience of orders on actual service, to be tried before a general Court Martial to be appointed by warrant under the hand and seal of the Commander in Chief.

Court may administer oaths, and may punish with death, or by fine and imprisonment not exceeding 50l. and six months.

Members of a General Court Martial to be sworn.

No sentence of death to be given unless twelve Officers concur.

Judge Advocate to be appointed and sworn, and allowed 15s. per day.

General Court Martial, who shall be allowed for his services *fifteen shillings* per diem; during the time he shall actually be employed in such service; which Judge Advocate so appointed, shall previous to any proceedings had on the trial of any prisoner, take the following oath, to be administered by the President of the Court, to wit: "I (A. B.) do swear, that I will not upon any account at any time whatever, disclose or discover the vote or opinion of any particular Member of this Court Martial, unless required to give evidence thereof as a witness by a Court of Justice, in a due course of Law: So help me God!"

No sentence of death to be executed without a warrant under the hand and seal of the Commander in Chief.

Manner of execution to be by shooting or hanging.

Warrant to be read previous to execution.

No Officer under the rank of Capt. to try a Field Officer.

Militia on service to receive the same pay and allowances as the King's Troops,

and also a bounty to those who have served faithfully, of 30s. per month, not to exceed in the whole 5l.

XXXIII. *And be it further enacted,* That no person shall be put to death; under the sentence of a General Court Martial, until a warrant under the hand and seal of the Governor or Commander in Chief, shall issue for the execution of such sentence, which warrant shall direct the time and place, when and where the person sentenced to death shall be executed; and all sentences of death shall be executed by either shooting or hanging the offender, as the same may be directed and ordered in the said warrant; which warrant shall be a sufficient justification to the officer or officers to whom the same shall be directed, and to all those lawfully employed under them, in executing such sentence. *Provided always,* that previous to any persons being put to death, pursuant to the sentence of a General Court Martial, such sentence and warrant for the execution thereof, shall be publicly read in the hearing of the bye standers, at the time and place appointed for such execution.

XXXIV. *And be it further enacted,* That no Officer under the rank of Captain shall sit upon a Court Martial for the trial of any Field Officer.

XXXV. *And be it further enacted,* That whenever the whole or any part of the Militia of this Province, shall be called out into actual service, the Officers, Non-Commissioned Officers, Drummers, Fifers, and Privates, shall be intitled to the same pay and allowances as the Officers, Non-Commissioned Officers, Drummers, Fifers, and Privates of His MAJESTY'S regular troops respectively receive, to be reckoned from the day that they march from the rendezvous of their respective Companies, to go on actual service, until they shall be dismissed by order of the Governor or Commander in Chief; and at the time of their dismissal they shall be allowed respectively, a number of days pay to defray their expences to their usual places of residence, according to the distance, at the rate of fifteen miles per day, together with a bounty to each man of the Non-Commissioned Officers, Drummers, Fifers, and Privates, who shall have served faithfully during the time or times they shall so have continued on actual service, at and after the rate of *thirty shillings* per month, for every calendar month which they shall respectively have been and remained on actual service but not to exceed in the whole the sum of *five pounds*, for each separate time or occasion on which they shall so have respectively been called out into actual service as aforesaid.

XXXVI. *And be it further enacted,* That all the male Blacks, and people of Colour, between sixteen and fifty years of age, within each and every of the Counties within this Province, shall be formed into one or more Companies as may be thought expedient, and attached to the several Regiments or Battalions, within the districts of which, they may respectively reside, and shall have such Officers to command them as the Governor or Commander in Chief for the time being, may think fit to appoint, and shall be considered as the Pioneers of the Regiments or Battalions to which they may respectively belong, or otherwise as the Commander in Chief may direct: and be subject to the same, or the like draughts for actual service as the Militia in general are liable to in times of invasion or imminent danger thereof.

Male Blacks to be enrolled and formed into Companies, and to serve as Pioneers, or as the Commander in Chief may direct,

and be draughted for service.

XXXVII. *And be it further enacted,* That it shall and may be lawful for the Governor or Commander in Chief for the time being, and he is hereby authorised in case of actual invasion or imminent danger thereof, to direct the building of such a number of Boats as in his judgment and discretion may appear requisite, and on such a construction as he shall judge most proper for the purposes of transporting the Militia with greater facility to different parts of this Province, as well as for annoying the enemy, provided that the sum or sums, to be expended in building such Boats, shall not exceed the sum of *four hundred pounds*:

In case of invasion, &c. the Commander in Chief may direct the building of Boats.

XXXVIII. *And be it further enacted,* That it shall and may be lawful for the Governor or Commander in Chief, for the time being, in any place or places, where he may judge it to be necessary or expedient, to cause one or more Company or Companies of Sea Fencibles to be formed, (to be composed of the Sea-faring people; and such as are principally employed on the water) to belong to and form a part of the Regiments or Battalions of Militia, respectively, in the districts of which the same may be formed, and to direct the mode of drilling and instructing the Officers and men of the same Companies, provided that the time required of the Officers and men thereof, shall not exceed that required by this Act, of other persons belonging to the Militia; and for neglect, or refusal, on the part of either the Officers or men of either of the said Companies of Sea Fencibles to discharge the duty required of them in compliance with such direction of the Commander in Chief, they shall severally incur the like penalty and penalties as other persons of the like rank in the Regiments or Battalions to which they may belong, and to be recovered and applied in like manner as is herein provided.

Commander in Chief may in places where he may judge it necessary, order Companies of Sea-Fencibles to be formed of the Sea-faring people, and direct the mode of drilling and instructing them.

XXXIX. *And be it further enacted,* That whenever the Commanding Officer of the Militia, in any County or district, where such Boats are provided, shall find it necessary to order the Boats so provided, or any other Boats or Vessels with which he may be furnished, to proceed in repelling the enemy, or to the assistance of any neighbouring district or place, or to be stationed as a watch for the defence of any such place, the Militia of any such County, and particularly the Sea Fencibles, shall on the orders of such commanding Officer, proceed in such Boats accordingly.

Militia and Sea-Fencibles may be ordered to do duty in the Boats.

*XL. And be it further enacted,* That if any Captain or Officer commanding a Company, shall refuse or neglect to collect or refuse or neglect to pay into the hands of the Quarter-Master, any fine or penalty by him imposed, or any sum or sums by him received, it shall in any such case or cases, be the duty of the commanding Officer of the regiment or battalion to which such Officer may belong, to order and direct such Officer to be prosecuted by the Quarter-Master, as well for the money by him received, as that which he has neglected to collect, before any one of His MAJESTY'S Justices of the Peace; provided the same shall not exceed the sum of *five pounds*; and when the same shall exceed the sum of *five pounds*, then before any two of His MAJESTY'S Justices of the Peace, and that it shall be the duty of such Quarter-Master forthwith to proceed for the recovery of the same.

*XLI. And be it further enacted,* That all fines not herein before particularly appropriated, shall be paid to the respective Quarter-Masters of Regiments or Battalions, for the purpose of defraying the contingent expences of such Regiments or Battalions, and that it shall be the duty of the respective commanding Officers of such Regiments or Battalions; to see that the fines and sums to be collected by this Act, be laid out for the purposes herein provided for, and that the commander of every Regiment or Battalion, render an account to the Commander in Chief, every six months, of the application of such fines and sums of money, and what may be remaining in the hands of the Quarter-Master, that the same may be paid into the Province Treasury, if the Commander in Chief shall so direct.

*XLII. And be it further enacted,* That whenever the Militia, or any part thereof, shall be called into actual service, it shall and may be lawful for the Officer commanding any Regiment or Battalion, detachment or party, to impress Boats, Men, Horses, and teams as the service may require.

*XLIII. And be it further enacted,* That whenever it shall be rendered necessary by any attack, made or threatened suddenly to be made in any Sea-port, City, Town, or other place at or in the Harbour of which any Merchant Ships, or Vessels, may be lying, the Officer commanding the Militia, is hereby authorised and fully empowered to compel the persons belonging to such Ships or Vessels, to do duty on shore, with the Militia Artillery, if any such there be, or in any boats or vessels, or with any part of the Militia, where they can be the most usefully employed in resisting the attack of the enemy; And that in case of any great emergency which may render the service of Artillerymen necessary, the Officer commanding any Regiment or Battalion, to which there may be an Artillery Company, may require the service of the whole, or a part of such Artillery Company as he may judge necessary although the numbers required may exceed the proportion of men wanted or required from the rest of the Regiment or Battalion and so in like manner with any Company of Sea Fencibles, or any or either of the Flank Companies.

*XLIV. And be it further enacted,* That the Commissioned Officers



Officers of the Militia, when on actual service, and doing duty in Garrison or the Field, with any of His MAJESTY'S Regular or Fencible forces, shall take rank with the Officers of such forces, as the youngest of their degree, and that the said Officers of the Regular and Fencible forces in this Province, and the Officers of the Militia thereof, shall be entitled reciprocally to command; and be subject to be commanded in the same manner as is provided by the Laws of Great-Britain, and the Articles of War, for the Government of the Regular and Militia forces thereof; and subject to the like pains and penalties on the part of the Officers of the Militia as are prescribed by the thirty-first Section of this Act. Provided that nothing in this Section contained, shall be in force until the same shall be more effectually established, as far as it relates to the Officers of the Regular and Fencible forces, by a general Order of the Lieutenant-General Commanding His MAJESTY'S forces, and published by the Governor or Commander in Chief, for the time being, in General Orders to the Militia.

Militia Officers doing duty with His Majesty's regular Forces to take rank as youngest of their degree.

Not to be in force until an order of the Lieut. General commanding the regular Forces be published.

XLV. *And be it further enacted,* That if any person be wounded or disabled upon any invasion or attack of the enemy, he shall be taken care of, and provided for, at the expence of the Province, during the time of such disability.

Persons disabled to be provided for at the expence of the Province.

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

Limitation.

\*\*\*\*\*

CAP. X.

An ACT, to continue an Act, intituled " An Act to prevent illicit and clandestine Trade, and for imposing a duty upon articles illegally imported or brought into this Province, to be levied and paid after the condemnation and sale thereof." Passed the 14th of March, 1810:

*BE it enacted by the President, Council, and Assembly,* That an Act passed in the forty-seventh year of His MAJESTY'S Reign, intituled " An Act to prevent illicit and clandestine Trade, and for imposing a duty upon articles illegally imported or brought into this Province, to be levied and paid after the condemnation and sale thereof," be, and the same is hereby continued to the first day of April, which will be in the year of our Lord one thousand eight hundred and fifteen.

Continued to the first of April 1815.

\*\*\*\*\*

CAP. XI.

An ACT to authorise the Justices of the Sessions in the City and County of Saint John; to levy an assessment for the purpose of repairing and adding

ding to the Gaol of the said City and County.  
Passed the 14th of March, 1810.

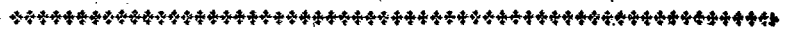
Preamble.

**W**HEREAS the Gaol for the City and County of *Saint John* has become very much out of repair, and is insufficient for the security of the persons which may be therein confined, and has lately been so represented in a presentment made by the Grand Jury, to the Court of General Quarter Sessions of the Peace for the said City and County: And whereas the said Gaol has been found to be not sufficiently large, for the proper accommodation of the Prisoners therein confined: And whereas the said Court of General Quarter Sessions of the Peace have procured an estimate to be made of the expences which must be incurred in making the necessary repairs to the said Gaol, agreeably to the said presentment of the said Grand Jury, and also of raising an additional story to the said Gaol, for the better accommodation of the prisoners therein to be confined; the amount of which estimate exceeds the sum which, by the Laws now in force, the said Justices are authorised to assess and levy: And whereas in addition to the sum of *three hundred pounds* already assessed by the said Justices, it is found necessary for the purposes aforesaid, to raise by assessment the further sum of *five hundred pounds*.

Justices in General Sessions may make an assessment not exceeding five hundred pounds,

*Be it therefore enacted by the President, Council and Assembly,* That the said Justices of the Peace, for the said City and County, at any General Quarter Sessions of the Peace hereafter to be holden, are hereby authorised and empowered to make a further rate or assessment of any sum, not exceeding the sum of *five hundred pounds*, as they in their discretion may think necessary for the purpose of repairing and adding to as aforesaid, and finishing the said Gaol so to be repaired and added to as aforesaid; to be assessed, levied, collected, and paid, in such proportion and in such manner, as any other County rates can or may be assessed, levied, collected, and paid, by virtue of an Act made and passed in the twenty-sixth year of His MAJESTY'S Reign, intituled "An Act for assessing, collecting and levying County Rates."

to be assessed, levied and collected as other County rates may be by the Act of 26 Geo. 3.



CAP XII.

An ACT in amendment of the Acts now in force for regulating Seamen. Passed the 14th of March, 1810.

Preamble.

**W**HEREAS in and by an Act made and passed in the thirty-eighth year of His MAJESTY'S Reign, intituled "An Act in addition to, and in amendment of an Act for the regulation of Seamen: The penalty of *twenty pounds* is liable to be incurred for the offence mentioned in the second Section of the said Act, but no person is authorised to prosecute for the same.

*Be*

*Be it therefore enacted by the President, Council and Assembly,*  
 That it shall be the duty of the Chamberlain of the City of *Saint John*, if the offence shall be therein committed, or the Treasurer of any County where such offence may be committed, to sue for and prosecute for the recovery of the said penalty by action of debt, in the Supreme Court or the Mayor's Court of the City of *Saint John*, or either of the Inferior Courts of Common Pleas of the several Counties where such offence may be committed, and such Chamberlain or Treasurer is hereby authorised to prosecute for such penalty, and when recovered, to apply the same in manner as in and by the said Act is directed.



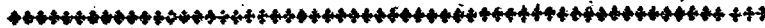
CAP. XIII.

An ACT to continue and amend an Act, intituled an Act for regulating Pilots. Passed the 14th of March, 1810.

**W**HEREAS it has been found that several Pilots appointed by virtue of an Act, made and passed in the twenty-sixth year of His MAJESTY'S Reign, intituled "An Act for regulating Pilots," have refused or neglected to perform the duties required of them by said Act. And whereas no power is given by said Act, to remove or displace such Pilots as may refuse or neglect to perform the duties required of them in and by said Act.

I. *Be it therefore enacted by the President, Council and Assembly,* That it shall and may be lawful for the Justices of the Common Pleas, in such Counties where Pilots are, or may be appointed, on complaint and proof before them, that any Pilot has neglected or refused to perform the duties required of him as a Branch Pilot, by virtue of said Act, to displace and remove any Pilot so convicted of neglect or refusal, and to declare him prohibited and restrained from exercising the duties of a Pilot for the Port or place to which he was appointed a Pilot.

II. *And be it further enacted,* That the said Act, and every part thereof, not hereby altered and amended, be and remain in full force and virtue; any thing herein contained to the contrary notwithstanding.



CAP. XIV.

An ACT to continue and amend an Act, intituled "An Act for raising a Revenue in this Province." Passed the 14th of March, 1810:

I. *Be it enacted by the President, Council and Assembly,* That an Act made and passed in the forty-seventh year of His MAJESTY'S Reign, intituled "An Act for raising a Revenue in this Province," and since continued to the first day of April next;

Chamberlain of the City of Saint John, and the Treasurers of the respective Counties to prosecute for penalties.

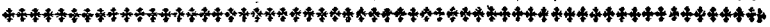
The Justices of the Common Pleas on complaint and proof that any Pilot has neglected or refused to perform his duty may displace him & prohibit him from acting as a Pilot.

Former Act continued in force, except wherein it is hereby altered.

Continued to the first of April 1812.

be, and the same is hereby further continued (excepting where- in the same is hereby amended and altered) and declared to be in full force, until the first day of April, which will be in the year of our Lord one thousand eight hundred and twelve.

II. *And be it further enacted*, That no drawback whatever, No drawback allow- ed on articles export- ed and landed to the eastward of Machias Harbour. On any duties shall be hereafter allowed on any Rum, Wine, Brandy, Gin, or brown Sugar, exported from this Province, and landed at any port or place in the United States to the east- ward of *Machias* harbour.



CAP. XV.

An ACT for the preservation of Oysters in the Counties of Westmorland and Northumberland. Passed the 14th of March, 1810.

I. *Be it enacted by the President, Council and Assembly*, That No vessel other than open boats & canoes to anchor on any Oyster bed for the purpose of taking Oysters under the penalty of 60s. no vessel of any kind whatsoever, open boats and canoes ex- cepted, shall at any time anchor on any of the beds of Oysters, in any Bay or Harbour within the Counties of *Westmorland* and *Northumberland*, nor shall any person whatever ground any ves- sel, on any Oyster bed, within any of said Bays or Harbours, for the purpose of taking Oysters, except open boats and canoes. And if any person or persons whosever shall anchor any vessel as aforesaid, or shall ground any vessel on such Oyster bed, for the purpose of taking Oysters, every person so offend- ing shall incur the penalty of *sixty shillings* for every offence.

II. *And be it further enacted*, That it shall be the duty of Persons taking Oy- sers to convey all stones, shells, and rubbish they may rake up, to the shore at low water mark under the penalty of 40s. every person taking Oysters, on such Oyster bed, in any boat, canoe or vessel whatever, to take into such boat, canoe or vessel, all stones, shells or rubbish, they may rake up; and shall not throw the same again into the water, but shall convey the same to the shores at low water mark; and every person offending herein shall incur the penalty of *forty shillings* for every offence.

III. *And be it further enacted*, That all and every person or Persons taking Oy- sers in winter thro' the ice, to convey all shells and rubbish to the shore within six hours, under the pen- alty of 20s. persons taking Oysters in the winter season, through the ice, by tongs or otherwise, shall convey all shells, stones, or rubbish they may rake or take up, to the shore, and not suffer the same to lie on the ice, nor throw the same into the water: and if any person or persons shall not carry or convey such stones, shells or rubbish on shore, within the space of six hours, every person so neglecting, shall for every offence incur the penalty of *twenty shillings*.

IV. *And be it further enacted*, That the aforesaid penalties, Penalties to be re- covered by action of debt before a Justice of the Peace and ap- plied, half to the pro- secutor and the re- mainder for the pur- pose of erecting buoys. and every of them, shall and may be sued for, in an action or actions of debt in a summary way, before any Justice of the Peace in the said Counties respectively, where the offence shall be committed; and when recovered, one half of such penalty shall be to the use of the person suing and prosecuting for the same;

same; and the other half shall be applied for the purpose of erecting buoys in such harbours or bays respectively, and paid over accordingly: And it shall be the duty of all Constables resident in the limits or contiguous to such bays and harbours, to prosecute all breaches of this Act.

V. *And be it further enacted*, That this Act shall continue and <sup>Limitation.</sup> be in force five years, and to the end of the then next Session of the General Assembly, and no longer.

\*\*\*\*\*

### CAP. XVI.

An ACT to provide for the more effectually repairing the Streets and Bridges in the City and County of Saint John. Passed the 14th of March, 1810.

**W**HEREAS the Mayor, Aldermen, and Commonalty of the City of *Saint John*, by the Charter of the said City, ratified by an Act of the General Assembly, are authorised and empowered <sup>Preamble.</sup> “to make, lay out, alter, amend, and repair the “Streets, Highways and Bridges in and throughout the said “City, and the vicinity thereof, and also beyond the limits of “the said City, or either side thereof, throughout the County “of *Saint John*.” And by the same Charter “the Citizens of “the said City during the time of their being inhabitants thereof, are not liable to perform any duty without the limits of “the said City, except for the laying out Roads and Highways “in other parts of the said City and County, and the working, “clearing, amending, and repairing the same.” And whereas it is just, equitable, and expedient that the Freemen and inhabitants of the said City, should do, and perform an equal number of days work as the other inhabitants of the Province, for the purpose of completing and amending the public Roads, and Bridges. And whereas it is necessary for the more perfect discharge of the duties imposed upon, and the execution of the powers vested in the said Mayor, Aldermen, and Commonalty, as aforesaid, that they should be enabled to call forth the labour of the inhabitants and residents of the several Towns and Parishes in the said County, as well as of the freemen, inhabitants, and residents of the said City: And whereas doubts have prevailed as to the powers and duties of the said Mayor, Aldermen, and Commonalty, in the making, laying out, clearing, and amending the Highways and Bridges, in and throughout the said County of *Saint John*.

I. *Be it therefore declared and enacted by the President, Council and Assembly*, That it was, and is the duty of the said Mayor, Aldermen, and Commonalty, not only to establish, appoint, order and direct the making and laying out of all other Streets, Highways, and Bridges, not made and laid out at the time of granting the said Charter, but also to alter, amend, and repair all such Streets, Highways, and Bridges before that time made, laid out, or used, or since that time made, laid out, or used; or <sup>Duty of the Mayor, Aldermen, &c. to alter, amend, and repair all Streets, Highways & Bridges throughout the county of Saint John.</sup> hereafter

hereafter to be made, laid out, or used; not only in and throughout the said City, and the vicinity thereof, but also beyond the limits of the said City, or either side thereof, throughout the said County of *Saint John*.

*II. And be it further enacted,* That the inhabitants and residents of the said City and County, shall be, and they are hereby made liable, to do and perform an equal number of days labour, in the clearing, maintaining, and repairing of the Roads, Highways, Streets, and Bridges, in and throughout the said City and County, as other inhabitants and residents in the Province, by Law are liable to in their respective Parishes, and be subject to the same fines and penalties, and to the payment of like sums of money, for neglect of duty, to be recovered if within the said City, in the City Court thereof, otherwise before any one of His MAJESTY'S Justices of the Peace, of the said City and County, at the suit of the Surveyors of the respective districts by action of debt, with costs of suit as is established by Law, for the recovery of small debts.

Inhabitants and residents of the City and County of St. John to perform an equal number of days labour upon the Highways as the other inhabitants in the Province, and be subject to the like fines and penalties for neglect.

*III. And be it further enacted,* That all the Roads, Streets, and Highways heretofore laid out, and which are now used as such, and also all public bridges heretofore built, and now used as such, shall be, and the same are hereby deemed and established to be the public Roads, Highways, Streets, and Bridges of the said City and County; and shall continue so to be, until the same shall be altered by the Mayor, Aldermen, and Commonalty of the said City.

All Roads, &c. heretofore laid out and now used to be deemed public Highways until altered by the Mayor, Aldermen, &c.

*IV. And be it further enacted,* That the said Mayor, Aldermen, and Commonalty of the said City, in Common Council convened, are hereby authorised and required on the third Tuesday in March (or within the next four successive days) in each and every year to appoint by Warrants under the Common Seal of said City, a competent number of fit persons, to be Surveyors of the Highways for the said City and County; assigning to each of the said Surveyors in such warrant, the limits of the district within and over which he shall exercise the duties and powers incident to his office, both with respect to the times and places where the work is to be performed, and the persons to be summoned to perform such work: and in case of the refusal of any such person to accept of such office, or in case of any vacancy by death, or removal, or other incapacity of any Surveyor, to perform the duties of his office, the said Mayor, Aldermen, and Commonalty, are authorised and required in like manner to appoint another in his place.

Surveyors of the Highways to be annually appointed under the Common Seal, and districts assigned to them.

in case of refusal to accept the office, or other vacancy, another person to be appointed.

*V. And be it further enacted,* That it shall be the duty of the Common Clerk of the said City, immediately after the making of any appointment as aforesaid, to deliver or transmit, to the said several Surveyors so appointed, their warrants of appointment: and that each and every person so appointed, shall within fourteen days after receiving the same warrant, be duly sworn to the faithful performance of the duties of his Office, before the Mayor, Recorder, or either of the Aldermen of the said City,

The Common Clerk to transmit the warrants of appointment to the several Surveyors, who shall within fourteen days after receiving the same be sworn.

or either of His MAJESTY's Justices of the Peace, for the said City and County, which oath they are hereby severally authorised and required to administer; and to indorse a Certificate thereof, upon each of the said warrants of appointment.

VI. *And be it further enacted*, That each and every person so to be appointed, who shall neglect or refuse to accept of the office of Surveyor as aforesaid, and to take the oath herein before required, within the time limited as aforesaid; or shall neglect or refuse to do and perform any of the duties herein required of him, shall for each and every offence, forfeit and pay the sum of *three pounds*, to be recovered before any one of His MAJESTY's Justices of the Peace, as aforesaid, upon the oath of one or more credible witness or witnesses, and levied with costs of prosecution by warrant of distress and sale of the Goods and Chattels of the persons so offending, and when recovered, to be paid into the hands of the Chamberlain of the said City, to be laid out on the Highways, Streets, and Bridges; within the said City and County.

Persons neglecting or refusing to accept the office of Surveyor, or, and to be sworn to forfeit 3l. to be recovered before a Justice of the Peace, and paid to the Chamberlain of the City to be laid out on the Highways.

VII. *And be it further enacted*, That it shall be the duty of the several Surveyors of Highways, within the said City and County, on or before the first day of May, in each and every year to make out and transmit to the Chamberlain of the said City, lists of all persons within their respective districts, who are by Law liable to work upon the Highways, Streets, and Bridges, specifying the number of days each person is bound to work, and to add thereto from time to time, the names of any persons who may afterwards come to reside within the same: and to summon the said persons to work, and to superintend them, and to summon their Teams to work when necessary, in any part of their respective districts, at their discretion in the same manner as is provided in the Laws for regulating and repairing Highways, and Bridges in other parts of the Province, and to receive such sums of Money as shall be paid in lieu of labour, at the rate established by such Laws, and to recover and collect from all delinquents, the fines incurred by them for neglecting or refusing to work when called upon as aforesaid; and by the first day of December in each and every year, or sooner if thereunto required by the said Mayor, Aldermen, and Commonalty, to render accounts of all sums so received and collected by them respectively, (stating from whom received) to the Chamberlain of the said City, and at the same time render accounts, with vouchers of all monies which they may respectively have expended by order of the said Mayor, Aldermen, and Commonalty, upon the said Highways, Streets, and Bridges: and at the same time, or before if required, pay to the said Chamberlain any monies remaining in their hands.

Surveyors by the first of May to transmit to the Chamberlain lists of persons liable to work on the Highways specifying the number of days, and to summon the persons to work as directed by the Law for regulating Highways in other parts of the Province, and to receive money paid in lieu of labour and collect fines, and render an account of the same to the Chamberlain, with accounts and vouchers of all monies expended, and pay over monies remaining in hand.

VIII. *Provided always, and be it further enacted*, That when-ever the said Mayor, Aldermen, and Commonalty; shall direct any Surveyor to work in a particular part of, or any particular place or bridge within his district, or to take any number of persons belonging to his district, out of such district, into the next adjacent district, it shall be the further duty of the said Surveyor, when directed by the Mayor, &c. to work at any particular place in their districts, or to take persons belonging to their districts into that next adjacent.

or to attend to the same, and to perform such duty so required of him.

IX. *And be it further enacted,* That the said Chamberlain of the said City, shall keep an account of the monies, received by him by virtue of this Act, separate and distinct from the accounts of other funds in his hands, and obey all orders of the Common Council of the said City, for the expenditure of the monies, which he may so receive, and on or before the first day of March, in each and every year, shall make out an account, with vouchers of all monies received and paid by him as aforesaid, and lodge the same with the Clerk of the Peace of the said City and County, together with the lists, and accounts, which he may have received from the Surveyors of Highways as aforesaid, to be laid before the General Quarter Sessions of the Peace, for the said City and County.

Chamberlain to keep separate accounts of monies received by virtue of this Act, & on the first of March yearly to lodge an account with vouchers, with the Clerk of the Peace, together with the lists and accounts received from the Surveyors, to be laid before the Sessions.

X. *Provided always, and be it further enacted,* That nothing herein contained, shall be construed to abridge the powers of the said Mayor, Aldermen, and Commonalty, to make any Laws or Ordinances, for the regulation of any of the Streets, Highways, Roads, Lanes, Alleys, Bridges, Slips, Piers, and Wharves, within the limits of the said City, in manner as heretofore accustomed, so as the same Laws and Ordinances shall not be repugnant to this Act, any thing herein contained to the contrary thereof notwithstanding.

Not to abridge the powers of the Mayor, &c. to make Laws or Ordinances (not repugnant to this Act) for regulating the Streets &c. within the City.

XI. *And be it further enacted,* That this Act shall be, and continue in force for the term of four years, and no longer.

Limitation.

\*\*\*\*\*

CAP. XVII.

An ACT for the more easy and speedy recovery of small debts. Passed the 14th of March, 1810.

I. *Be it enacted by the President, Council and Assembly,* That all and every person and persons who now have, or hereafter shall have any debt or debts owing unto him, her, or them, not exceeding five pounds, shall or may cause the debtor or debtors, to be proceeded against for the recovery of such debt or debts, before any one of His MAJESTY'S Justices of the Peace, in the several and respective Counties in this Province, in which such debtor or debtors respectively shall reside, or may be found, and that the ordinary Process against such debtor or debtors, shall be by Summons under the hand and seal of such Justice, directed to a Constable of the Town or Parish where such debtor or debtors shall reside, or may be found, which process shall express the time and place of appearance, and cause of action, and shall be served six days at least before the time of trial, and such service shall be by reading the same in the hearing of such debtor or debtors, or by leaving a true copy thereof at the usual place of abode of such debtor or debtors, and where any debtor shall be due, owing or demanded from any two or more persons jointly,

Debts not exceeding five pounds may be recovered before a Justice of the Peace.

Ordinary Process to be by summons directed to a Constable of the Parish where the debtor shall be found,

to express time and place of appearance and cause of action, and be served six days before trial by reading it in the hearing of the debtor or leaving a copy at his place of abode.



jointly, by reason or on account of such persons being partners in trade or otherwise jointly concerned, the like service of any such Summons as aforesaid, on any one of such two or more partners, shall be as good and sufficient as if each were separately summoned as aforesaid.

In case of joint debtors, service on one to be sufficient.

II. *And be it further enacted*, That every Constable shall inquire 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 plaintiff or defendant two days before, 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 defendant or defendants shall be allowed to set off any account or demand he, she, or 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 favor of the defendant, for the sum found due, and execution issued thereon; provided the same shall not exceed *five pounds*.

Constable to return the Process to the Justice who shall try and determine the cause unless it be put to issue by a Jury.

in which case he shall issue a Venire to a Constable to summon three Jurors who shall be sworn, and their verdict shall be conclusive.

Witnesses to be sworn.

Set off allowed.

III. *And be it further enacted*, That every person impanelled 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 Justice) such fine or fines, not exceeding the sum of *ten shillings*, as the said Justice shall think reasonable to impose.

Jurors or witnesses not appearing, or refusing to serve to be fined.

IV. *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 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 debtors 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.

Debtor about to abscond shall be arrested, and if he refuse to give bail, he shall be committed to Goal.

V. *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 him, with or without a Jury; and all judgments entered on default of the defendants 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 determined before him

and may adjourn the hearing of a cause on account of the absence of a material witness not more than three months, if done on application of defendant, bail to be taken to abide final judgment.

Oath of parties or *ex parte* affidavits not to be admitted but by consent.

VI. *And be it further enacted*, That in every case where a debt not exceeding the sum of *five pounds*, shall be contracted for necessities, by any person under the age of twenty one years, it shall be lawful for the person or persons to whom such debt shall be due, to sue for and recover such debt, before any Justice of the Peace as aforesaid, in the same manner, as if the person by whom the same shall be contracted, were of full age; and that in every case where any wages not exceeding the sum of *five pounds*, shall be due to any menial or other servant, under the age of twenty-one years, it shall be lawful for such servant, to sue for and recover such debt, before such Justice as aforesaid, in the same manner as if he, or she were of full age; and such Justice is hereby fully authorised and required to take cognizance of, and proceed concerning such debts in the same manner, and shall have such and the same powers, in regard thereto, as if the plaintiffs and defendants were all of full age.

Debts contracted for necessities by Persons under age may be recovered before a Justice of the Peace.

Servants under age may recover wages not exceeding five pounds, before a Justice, as if they were of full age.

VII. *And be it further enacted*, That in case any person or persons shall make oath, or, being of the people called Quakers, shall make affirmation, or give evidence, in any cause depending before any Justice of the Peace, under the authority of this Act, whereby any such person shall commit any wilful or corrupt perjury, or be guilty of wilful and false affirming, and thereof be duly convicted according to Law, then every such person shall incur and suffer the like pains and penalties as any other person convicted of wilful perjury, according to the Laws of this Province.

Persons guilty of false swearing or affirming, to incur the pains and penalties of wilful perjury.

VIII. *And be it further enacted*, That no privilege shall be allowed to exempt any person from the jurisdiction of the said Justices Court, on account of his being an Attorney, or Solicitor, or, or any other officer of the Courts of Law or Equity, but that all Attornies, Solicitors and officers, shall be subject to the several Processes, Orders, Judgments, and Executions of the said Justices Court, in the same manner as any other persons are subject to the same by this Act.

No privilege allowed to exempt Attornies or other Officers of the Courts of Law or Equity from the jurisdiction of the Justices court.

IX. *Provided always, and it is hereby declared,* That this Act, or any thing herein contained shall not extend to any debt, where any title of freehold, or lease for years of any lands or tenements, shall come in question; or to any debt by specialty, which shall not be for payment of a sum certain, although the same respectively, shall not exceed *five pounds*, any thing herein contained to the contrary notwithstanding.

Not to extend to debts where title to Freehold or lease of lands shall come in question, or to debt by specialty not for a sum certain.

X. *And be it further enacted,* That if any action or suit, shall be commenced in any other Court, than the said Justices Court, for any debt not exceeding the sum of *five pounds*, and recoverable by virtue of this Act; in the said Justices Court, then, and in every such case, the plaintiff or plaintiffs, in such action or suit, shall not, by reason of a verdict or judgment, for him, her or them, or otherwise, have, or be intitled to any costs whatsoever, and if the verdict or judgment, shall be given for the defendant or defendants, in such action or suit, and the Judge or Judges, before whom the same shall be tried, or heard, shall think fit to certify, that such debt ought to have been recovered in the said Justices Court, then, and so often such defendant or defendants, shall have double costs, and shall have such remedy for recovering the same, as any defendant or defendants, may have for his, her, or their costs, in any cases by Law.

If a suit for any debt not exceeding five pounds be brought in any other than the Justices Court, the Plaintiff shall not have costs, and in case of a verdict or judgment for the defendant, if the Judge shall certify that the debt ought to have been recovered in the Justices Court, the defendant shall have double costs.

XI. *Provided always,* That nothing herein contained, shall extend, or be construed to extend; to prevent or restrain any person or persons from making distress, or bringing any action or actions whatsoever for rent, and thereby recovering such rent, with costs, although the same rent should not exceed the sum of *five pounds*.

Not to extend to distresses or actions for rent; which may be recovered with costs though under five pounds.

XII. *And for removing all doubts,* whether the statute of limitations may be pleaded in the said Justices Court,—*It is hereby further enacted and declared,* that as well plaintiffs in cases of set off, as defendants in that Court, shall be allowed to plead, or claim the benefit of any statute of limitations, and every such plaintiff or defendant, so pleading or claiming, shall have and receive such and the like advantage and relief thereby, as such plaintiff or defendant would have been intitled to, in case this Act had not been made; and such defendant had been sued for the same debt, or other cause of action in any other Court in this Province.

Either party may plead and have the benefit of the Statute of Limitations.

XIII. *And be it further enacted,* That no judgment rendered 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 Jus-

No judgment to be reversed for circumstantial error, nor removed without affidavit showing just cause.

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 sum recovered, 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 favour such judgment shall be rendered, shall recover his costs; and if such judgment be reversed, the party procuring such Certiorari, shall recover their costs.

Execution not to be stayed by certiorari, if security be given to restore the sum recovered in case judgment be reversed.

Costs allowed on affirmation or reversal of judgment.

Executions to be directed to a constable.

For want of goods debtor to be committed.

Execution to be returnable.

Constable liable for neglect.

XIV. *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, or may be found, commanding him to levy of the goods and chattels of the debtor, the amount of the judgment, and for want of goods and chattels to satisfy the same, together with 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 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.

No action to be had against any Justice for any thing done under this Act, until after fourteen days notice,

or after satisfaction or tender thereof made, or after three months.

Defendant may plead the general issue, and give special matter in evidence,

and if judgment be for the defendant, he shall have double costs.

XV. *And be it further enacted,* That no action or suit, shall be commenced against any person or persons for any thing done in pursuance of this Act, or on account of any order, determination, or judgment of any Justice of the Peace, under the authority, and by virtue of this Act, until fourteen days notice shall be given thereof in writing, to be delivered to, or left at the dwelling house or place of abode, of such Justice, or after sufficient satisfaction, or tender thereof, has been made to the party or parties aggrieved, or after three calendar months, next after the cause of action shall arise, and the defendant or defendants, in such actions and suits, and every of them may plead the general issue, and give this Act, and the special matter in evidence, at any trial or trials which shall be had thereon; and if the plaintiff shall be non-suited, or if a verdict or judgment shall be given for the defendant or defendants therein, then, and in either of the said cases, such defendant or defendants, shall have double costs, and shall have such remedy for recovering the same, as any defendant or defendants may have for his, her, or their costs in any cases by Law.

Debts recoverable before a Justice to be recoverable in like manner in the Clerk's Court of St. John.

XVI. *And be it further enacted,* That all debts not exceeding five pounds as aforesaid, made recoverable before any Justice of the Peace, by virtue of this Act, shall, in case the debtor or debtors reside, or may be found, in the City of Saint John, be recoverable in the Clerk's Court, in the said City, as the same are made recoverable before any Justice of the Peace, in any County, by virtue of this Act, and subject to the like provisions and exceptions in every respect, excepting and provided always that

that the forms of the Process and proceedings, for the recovery thereof, shall be as hath at any time heretofore been accustomed, under and by virtue of the Charter of the said City, and the Act of Assembly, made and passed in the twenty-sixth year of His MAJESTY'S Reign, intituled "An Act for regulating the Courts of Law, as established in the several Counties for the trial of causes to the value of *forty shillings.*"—*Provided also,* that all executions, to be issued from the said City Court, shall be made returnable at the first or second sitting of the said Court, next after the time of issuing such execution, as the Clerk of the said Court, in his discretion, shall think fit.

Forms of Process in that Court to be as heretofore accustomed.

Executions from the Clerk's Court to be returnable.

XVII. *And be it further enacted,* That no greater or other costs, shall be allowed or taxed in actions brought before any Justice of the Peace, by virtue of this Act, than the following, to wit. Justices fees, Summons, *six pence,* Capias and Affidavit, *one shilling,* Trial and Judgment, *one shilling,* Subpœna, *four pence,* Venire, *six pence,* Execution, *nine pence.* To every witness who shall appear in the opinion of the Justice to have been necessary, for attendance *one shilling* per day, and *three pence* per mile, from his place of residence to that of the Justice by whom the Process has been issued. Constable or proper Officer for serving a Capias or Summons, *six pence,* serving an Execution, for every pound *six pence,* mileage for one mile or under, *one shilling,* for every mile more, *three pence;* the travel to be computed from the place of residence of the Officer to that of the defendant, or where he shall be found, and from thence to the Justices residence, before whom the process is returnable. Constable for summoning a Jury, *one shilling,* for serving a Subpœna for less than one mile, *six pence,* and *three pence* for every other mile. Jurors, *one shilling* each.

Costs.

Justices Fees.

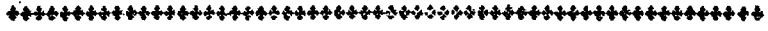
Witnesses Fees.

Constables Fees.

Jurors Fees.

XVIII. *Provided always, and be it further enacted,* That the Justices of the Peace, in the several Counties, shall respectively have concurrent jurisdiction with the Clerk's Courts, in the respective Counties, in all causes by Law cognizable by the same Courts, where the sum or thing in demand, does not exceed *forty shillings,* any Law, usage, or custom to the contrary notwithstanding.

Justices to have concurrent jurisdiction with the Clerk's Courts, where the matter in demand does not exceed forty shillings.



CAP. XVIII.

An ACT, in addition to an Act, intituled "An Act to empower the Justices of the Sessions, in the several Counties in this Province, to make such regulations respecting Markets and Ferries within such Counties as may be found necessary." Passed the 14th of March, 1810.

WHEREAS it may be convenient to extend the powers given to the Justices of the General Sessions of the Peace, in the several Counties in this Province, in and by an Act, made and passed in the twenty-eighth year of His MAJESTY'S Reign, intituled

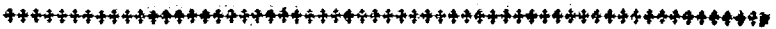
Preamble.

intituled " An Act to empower the Justices in the Sessions of " the several Counties in this Province, to make such regulati- " ons respecting Markets and Ferries; within such Counties as " may be found necessary." And to enable the said Justices in like manner to make regulations respecting causeys; promenades, or walks, made and provided for the accommodation of foot passengers in the public Streets or squares in the several Towns and Parishes; where the same may be found necessary.

Justices in Sessions may make regulations respecting Causeys, Promenades, Walks, &c. provided for the accommodation of foot passengers in the public streets, squares or other public places in any Town or Parish except St. John.

And for preventing injuries to the same under the like penalties as are provided by the recited Act.

Be it enacted by the President, Council, and Assembly, That in such of the Towns and Parishes in the several and respective Counties wherein, any causey, promenade, walk, pavement, or other structure shall be made and provided for the accommodation of foot passengers in the public streets, squares, or other public places in any such Town or Parish, except the Parish of Saint John, in the County of Saint John, it shall and may be lawful for the Justices of the General Sessions of the Peace, in the several and respective Counties to make such orders, rules, and regulations, respecting the same, and to prevent any injury being done to the same by riding with horses, carts, or carriages over the same, or by wilfully cutting down, injuring or destroying any posts, railings, trees or other defences placed and erected for the ornament or protection of the same, or otherwise howsoever, as such Justices in their discretion, shall from time to time think expedient and necessary under such and the like penalties, to be recovered, levied, and applied in like manner as is provided in and by the said herein before recited Act, for carrying into execution the powers given and granted to such Justices, in and by the same Act, any Law, usage or custom to the contrary thereof, in any wise notwithstanding.

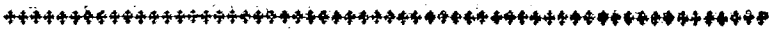


CAP. XIX.

An ACT, to make perpetual an Act, for the further and better support of the Poor in the City of Saint John. Passed the 14th of March, 1810.

Made perpetual.

Be it enacted by the President, Council, and Assembly, That an Act made and passed in the forty-first year of His MAJESTY'S Reign, intituled " An Act for the further and better support of " the Poor in the City of Saint John," be, and the same is hereby made perpetual.



CAP. XX.

An ACT, for the further regulation of Fisheries, and for preventing their decay. Passed the 14th of March, 1810.

Preamble.

WHEREAS by an Act, made and passed in the thirty-third year of His MAJESTY'S Reign, intituled " An Act for regulating the Fisheries in the different rivers, coves and creeks " of

“ of this Province;” it is enacted that no net shall be set in the river *Saint John*, below the Boars Head, or in the harbour of *Saint John*, more than twenty fathoms in length: And whereas doubts have arisen as to the outward limits of the said harbour.

I. *Be it enacted by the President, Council, and Assembly, That* no net more than twenty fathoms in length, shall be set, in any part of the said harbour, on the northerly side of Partridge Island, nor within, or to the northward of straight lines to be drawn, the one from a point commonly called Black Point, on the western side of the said harbour, to the most westerly point on the said Island; and the other from the most easterly point on the same Island, to a Point called Lower-Battery Point, on the eastern side of the said harbour; under the penalty of ten pounds for each and every offence. And no net more than thirty fathoms in length, shall be set any where on the outer or southerly side of the above described limits, under the like penalty of ten pounds. And every net that shall be set in violation of this regulation, shall be liable to seizure and sale, in the manner and under the conditions and regulations prescribed in the third Section of the said Act for regulating the Fisheries in the different rivers, coves, and creeks of this Province.

II. *And be it further enacted, That* no net shall be set at or upon the rocks commonly called Shag Rocks, lying between Partridge and Manawagonish Islands; nor shall any two nets tied or fastened together be set, nor any drift net be used, for the purpose of catching fish, in the River *Saint John*, below the Boars Head, nor in the harbour of *Saint John*, as above limited, nor in any part of the river *Saint Croix*, within the limits of this Province; under the like penalty respectively of ten pounds for each and every offence, and the seizure and sale of the nets as aforesaid.

III. *And be it further enacted, That* no drift net, whether single, or composed of two or more nets tied or fastened together, and of a length in the whole exceeding thirty fathoms, shall be used for taking fish above the Boars Head, in the river *Saint John*, or in the river *Kennebeckacis*, under the penalty of five pounds, for each and every offence; nor shall there be used, in any branch of either of the said rivers, any such net of a length exceeding in the whole one fourth part of the width of such branch respectively, under the like penalty of five pounds; nor shall any drift nets be any where made use of as aforesaid, within a less distance than thirty fathoms from each other, under the penalty of ten pounds; nor shall any net whatever remain in the water in any part of this Province, at any time between sunset on Saturday, and sun-rise on the next ensuing Monday, under the penalty of five pounds. And all the several penalties imposed in this and the two preceding Sections (excepting the seizure and sale of nets,) shall be recovered, paid and applied in like manner as is directed in and by the first Section of the here-in before recited Act.

IV. *And be it further enacted, That* no Salmon shall in any manner

No Salmon to be taken or purchased in any part of the Province, between first of October, and first of April, under the penalty of 5s. for each fish.

manner whatever be taken or killed, any where within this Province, at any time between the first day of October, and the first day of April, in each and every year, under the penalty of *five shillings* for every Salmon, so unseasonably taken or killed; nor shall any person purchase the same or make use thereof, under the like penalty of *five shillings* for every Salmon so unseasonably taken or killed, that shall be found in his, or her possession; which respective penalties by this Section imposed, shall be recovered before any Justice of the Peace of the County, upon the oath of one or more credible witness or witnesses, and be levied by warrant of distress and sale of the offenders goods, rendering the overplus if any, after deducting the costs and charges of prosecution to the offender or offenders, and paid, one half to the informer, and the other half to the Overseers of the Poor, for the use of the poor of the Parish where the offence shall be committed. *Provided always* that the powers given to the Justices of the Peace in the County of *Northumberland*, in their General Sessions, in and by the ninth Section of an Act passed in the thirty-ninth year of His MAJESTY'S Reign, intituled "An Act for regulating the Fisheries in the County of *Northumberland*," shall remain unaltered, any thing in this present Act to the contrary notwithstanding.

Overseers of Fisheries for any place bordering on the Bay of Fundy, or other arm of the sea, to have the same power to seize nets set therein as if set within the limits of such place.

V. *And be it further enacted*, That the Overseers of the Fisheries, for any City or Parish bordering upon the Bay of Fundy, or upon any other arm of the sea, shall at all times have power and authority to seize and sell any nets set or used unlawfully, in any arm of the sea adjacent to such City or Parish, in like manner as by Law they would have if the waters thereof, were within the limits of such City or Parish; and that the Overseers of the Fisheries for the City of *Saint John*, shall have power to seize and sell as aforesaid, any nets set or used unlawfully, or that may be found drifting any where within the harbour of *Saint John*, or within the distance of two miles around Partridge Island.

Mill Dams on rivers usually resorted to by fish to have a fish way sufficient for the fish to pass at proper seasons.

VI. *And be it further enacted*, That in all Mill Dams or other fabrics, which have been or hereafter shall be erected or placed on, or across any river, situate either wholly or in part within this Province, and which has been usually resorted to by Fish from the sea in considerable quantities at their seasons for spawning, there shall be a waste gate or fish way, sufficient for such Fish, in the proper seasons, to pass up and return without any such hindrance or obstruction as may in future tend to divert them from such their usual resort. And if any Mill Dam or other fabric erected or placed as aforesaid, shall at any time after the first day of November next ensuing, be found without such waste gate or fish way, as is hereby required, and complaint thereof be duly made on oath, to the Justices of the Peace, of the County where such Mill Dam, or other fabric, shall be so found in their General Sessions of the Peace (of which complaint the owner or owners of such Mill Dam, or other fabric, shall have timely notice in writing,) it shall be lawful for the said Justices in such Sessions, and they are hereby directed forthwith to issue their Precept to the Sheriff in due form of Law, commanding him to empanel and swear a Jury of twelve good and lawful



lawful men of the said County, (but not of the Parish in which such Mill Dam, or other fabric shall be so found) and with such Jury, to view the Premises complained of. And the said Sheriff, after due inquest made by the said Jury, touching all matters and things set forth in such complaint, upon due examination of witnesses on oath; to be by him administered, shall make return of such inquest, to the said Justices in their Sessions, who thereupon, in case the Jury do find the said complaint to be just and true, shall make an order in writing, to be endorsed upon the inquest so returned, thereby directing the owner or owners, occupier or occupiers of such Mill Dam, or other fabric, to make or cause to be made therein such sufficient waste gate or fish way, as is hereby required within a reasonable time, to be in such order specified; and also requiring the offender or offenders so convicted to pay a fine not exceeding *twenty pounds* nor less than *ten pounds* immediately into the hands of the County Treasurer, for the use of the said County: And if any such offender or offenders shall refuse or neglect to pay such fine, together with reasonable charges of prosecution, to be taxed and allowed by the Court, it shall be lawful for the said Justices in their Sessions, and they are hereby directed to issue a warrant for levying such fine and charges by distress and sale of the goods and chattels of the said offender or offenders; and if no sufficient distress can be found, then, on due return thereof made by the Sheriff, the said Justices in their Sessions shall, by a further warrant to be by them issued in due form of Law, commit such offender or offenders to the public gaol of the County, wherein the offence shall have been committed, there to remain for the space of three months, or until the said fine and charges be paid:

Sheriff after due inquest made to make return to the Sessions, who, if the complaint is found to be true, shall make an order in writing, directing a fish way to be made,

and requiring the offender to pay a fine not exceeding 20l. nor less than 10l. which, if he refuse to pay, with costs, shall be levied by warrant of distress,

if no sufficient distress can be found, the offender to be imprisoned three months, or until the fine and charges be paid.

VII. *And be it further enacted*, That whenever the owner or owners, occupier or occupiers, of any such Mill Dam, or other fabric erected or placed as aforesaid, shall after such order and conviction as aforesaid, continue for the space of twenty days, such Mill Dam, or other fabric, without such sufficient waste gate or fish way, as is hereby required, it shall be considered as a new offence, and the offender or offenders shall incur the like penalty, to be recovered before any general or special Sessions of the Peace to be holden in and for the same County, and applied as aforesaid. And every twenty days continuance shall be deemed a new offence, and may be prosecuted as such, and the penalty aforesaid recovered so often as the same may happen.

Every twenty days continuance of any Mill Dam without a fish way, after order and conviction to be deemed a new offence, and the offender shall be liable to the same penalty.



CAP. XXI.

An ACT to regulate the proceedings in actions of Replevin, and to enable the sale of goods distrained for Rent, in case the Rent be not paid in a reasonable time, and for the more effectual securing the payment of Rents, and preventing fraud by Tenants. Passed the 14th of March, 1810.

WHEREAS

Preamble.

**W**HEREAS no County Courts are held by the Sheriffs of the several and respective Counties in this Province; and whereas the proceedings in actions of Replevin, by Writ issuing out of the Court of Chancery, are dilatory and expensive.

Actions of Replevin may be prosecuted by Writs issuing out of the Supreme Court and Courts of Common Pleas, tested and returnable in the said Courts respectively.

Writs to be framed by the Judges of the Supreme Court as near as may be conformably to the writs used in England.

*I. Be it enacted by the President, Council, and Assembly, That* actions of Replevin, shall and may be prosecuted by Writ issuing out of the Supreme Court, and out of the several and respective Inferior Courts of Common Pleas, in the several and respective Counties in this Province; and that such Writs of Replevin, shall be tested and made returnable in the said Courts respectively, as Writs in other causes within the jurisdiction and cognizance of such Courts; and that such Writs shall, as soon as may be, be framed by the Justices of the Supreme Court, conformably, as near as may be, to the Writs and Processes in that behalf used in England, any Law, usage or custom to the contrary thereof, in any wise notwithstanding.

The like proceedings to be had in the respective Courts as if the writs had issued out of Chancery, returnable to the Supreme Court.

*II. And be it further enacted, That* such and the like proceedings shall be had upon such Writs, and upon the return and filing thereof, in all respects, and to all intents and purposes, in the said Courts respectively, as could or might be had in the said Supreme Court, in case such Writs had issued out of the Court of Chancery and been made returnable in the said Supreme Court.

If title to lands come in question, or the King be a party, the cause to be removed to the Supreme Court, and there determined.

*III. Provided always, and be it further enacted, That* if any thing touching the freehold or title to lands shall come in question, or the King shall be a party, or the taking of any distress, shall be in the right of the Crown, that then, and in all such cases, no farther proceedings shall be had thereon in the said Inferior Courts, but the party desirous to proceed therein, shall remove such cause, by Certiorari into the Supreme Court, where the same shall be finally heard and determined, any thing herein before contained to the contrary notwithstanding.

Vide Eng. Stat. 2, William and Mary, Secs. 1, C. 5.

Goods distrained for Rent may be appraised and sold.

*IV. And be it further enacted, That* when any goods and chattels shall be distrained for any rent reserved and due upon any demise, lease, or contract whatsoever, and the tenant or owner of the goods so distrained, shall not within five days next after such distress taken, and notice thereof (with the cause of such taking) left at the dwelling house or other most notorious place on the premises charged with the rent distrained for, replevy the same, with sufficient security to be given to the Sheriff, according to Law, that then in such case, after such distress and notice as aforesaid, and expiration of the said five days, the person distraining, shall and may with the Sheriff, or under Sheriff of the County, or with a Constable of the Parish, City, or place where such distress shall be taken (who are hereby required to be aiding and assisting therein,) cause the goods and chattels so distrained, to be appraised by two sworn appraisers (whom such Sheriff, under Sheriff or Constable are hereby empowered to swear) to appraise the same truly, according to the best of their understandings; and, after such appraisement, shall and may lawfully sell the goods and chattels so distrained, for the best price that can be gotten for the same, towards satisfaction

tion for the rent, for which the said goods and chattels shall be distrained, and of the charges of such distress, appraisement and sale, leaving the overplus, if any, in the hands of the said Sheriff, under Sheriff or Constable; for the owners use.

V. *And be it further enacted*, That upon any Pound Breach, or rescous of goods or chattels distrained for rent, the person or persons grieved thereby; shall, in a special action upon the case for the wrong thereby sustained, recover his and their treble damages, and costs of suit against the offender or offenders in any such rescous or pound breach; any or either of them; or against the owner of the goods distrained; in case the same be afterwards found to have come to his use or possession.

VI. *Provided always, and be it further enacted*, That in case any such distress and sale as aforesaid, shall be made by virtue or colour of this Act, for rent pretended to be arrear and due, when in truth no rent is arrear or due to the person or persons distraining, or to him or them in whose name or names, or right such distress shall be taken as aforesaid, that then the owner of such goods or chattels distrained and sold as aforesaid, his Executors, or Administrators, shall and may, by action of trespass, or upon the case, to be brought against the person or persons so distraining, any, or either of them, his or their Executors, or Administrators, recover double of the value of the goods or chattels so distrained and sold, together with full costs of suit.

VII. *And be it further enacted*, That where any distress shall be made for any kind of rent justly due, and any irregularity or unlawful act shall be afterwards done by the party or parties distraining, or by his, her, or their Agents; the distress itself, shall not be therefore deemed to be unlawful; nor the party or parties making it be deemed a trespasser or trespassers *ab initio*; but the party or parties aggrieved by such unlawful act or irregularity, shall or may recover full satisfaction for the special damage he, she, or they shall have sustained thereby; and no more, in an action of trespass, or on the case at the election of the plaintiff or plaintiffs: *Provided always*, that where the plaintiff or plaintiffs shall recover in such action, he, she, or they shall be paid his, her, or their full costs of suit, and have all the like remedies for the same as in other cases of costs.

VIII. *Provided nevertheless*, That no tenant or tenants, lessee or lessees, shall recover in any action for any such unlawful act or irregularity as aforesaid, if tender of amends hath been made by the party or parties distraining his, her, or their agent or agents before such action brought.

IX. *And be it further enacted*, That it shall and may be lawful to and for all defendants in Replevin, to avow or make countenance, generally that the plaintiff in Replevin, or other tenant of the lands and tenements, whereon such distress was made, enjoyed the same under a Grant or demise, at such a certain rent, during the time wherein the rent distrained for incurred, which rent was then and still remains due; without further setting

ting forth the grant, tenure, demise or title of such landlord or landlords, lessor or lessors, any law, usage, or custom to the contrary notwithstanding. And if the plaintiff or plaintiffs, in such action, shall become non-suit, discontinue his, her, or their action, or have judgment given against him, her or them, the defendant or defendants in such Replevin, shall recover double costs of suit.

§ 23 To prevent vexatious Replevins.

X. And to prevent vexatious Replevins of distresses taken for rent.—*Be it further enacted*, That all Sheriffs and other officers, having execution and return of Writs of Replevin, may and shall in executing every Writ of Replevin, of a distress for rent, take in their own names from the plaintiff, and two responsible persons as sureties, a Bond in double the value of the goods distrained (such value to be ascertained by the oath of one or more credible witness or witnesses, not interested in the goods or distress, which oath the person executing such Writ of Replevin, is hereby authorised and required to administer) and conditioned for prosecuting the suit with effect, and without delay, and for duly returning the goods and chattels distrained, in case a return shall be awarded, before any deliverance be made of the distress, and that such Sheriff, or other officer as aforesaid, taking any such Bond, shall at the request and costs of the avowant, or person making conuzance assign such bond to the avowant or person as aforesaid, by indorsing the same, and attesting it under his hand and seal in the presence of two or more credible witnesses; and if the bond so taken and assigned, be forfeited, the avowant or person making conuzance, may bring an action and recover thereon in his own name, and the Court where such action shall be brought may, by a rule of the same Court, give such relief to the parties upon such bond as may be agreeable to justice and reason; and such rule shall have the nature and effect of a defeasance to such bond.

Bonds may be assigned.

§ 1 Landlords may distrain and sell goods fraudulently carried off the premises within 30 days.

XI. *And be it further enacted*, That in case any tenant or tenants, lessee or lessees, for live or lives, term of years, at will, sufferance or otherwise, of any messuages, lands, tenements or hereditaments, upon the demise or holding whereof any rent is or shall be reserved, due or made payable, shall fraudulently, or clandestinely convey away, or carry off from such premises, his, her, or their goods or chattels to prevent the landlord or lessor, landlords or lessors, from distraining the same for arrears of rent, so reserved, due, or made payable, it shall and may be lawful, to and for every such landlord or lessor, landlords or lessors, or any person or persons by him, her, or them, for that purpose lawfully empowered, within the space of thirty days next ensuing such conveying away, or carrying off such goods or chattels as aforesaid, to take and seize such goods and chattels wherever the same shall be found, as a distress for the said arrears of rent; and the same to sell or otherwise dispose of in such manner, as if the said goods and chattels, had actually been distrained by such lessor or landlord, lessors or landlords, in and upon such premises for such arrears of rent, any Law, custom, or usage, to the contrary in any wise notwithstanding.

XII.

XII. *Provided always*, That no landlord or lessor, or other person entitled to such arrears of rent, shall take or seize any such goods or chattels as a distress for the same, which shall be sold *bona fide*, and for valuable consideration, before such seizure made; to any person or persons not privy to such fraud as aforesaid, any thing herein before contained to the contrary notwithstanding.

Unless sold to any person not privy to the fraud.

XIII. *And be it further enacted*, That when any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant or tenants, lessee or lessees, his, her or their servant or servants, agent or agents, or other person or persons, aiding or assisting therein, shall be put, placed, or kept, in any house, barn, stable, out-house, yard, close or place locked up, fastened or otherwise secured, so as to prevent such goods or chattels from being taken and seized as a distress for arrears of rent, it shall and may be lawful for the landlord or landlords, lessor or lessors, his, her, or their bailiff, receiver, or other person or persons empowered to take and seize as a distress for rent, such goods and chattels (first calling to his, her, or their assistance a Constable, or other Peace officer of the Parish, district or place, where the same shall be suspected to be concealed, who are hereby required to aid and assist therein), and in case of a dwelling house, (oath being also first made before some Justice of the Peace, of a reasonable ground to suspect that such goods or chattels are therein) in the day time, to break open, and enter into such house, barn, stable, out-house, yard, close and place, and to take and seize such goods and chattels for the said arrears of rent, as he, she, or they might have done by virtue of this Act, if such goods and chattels had been put in any open field or place.

Landlords may break open houses to seize goods fraudulently secured therein.

XIV. *And be it further enacted*, That it shall and may be lawful, to and for any person or persons, lawfully taking any distress for any kind of rent to impound, or otherwise secure the distress so made, of what nature or kind soever it may be, in such place, or on such part of the premises chargeable with the rent, as shall be most fit and convenient for the impounding and securing such distress, and to appraise, sell, and dispose of the same, upon the premises in like manner, and under the like directions and restraints to all intents and purposes, as any person taking a distress for rent may do off the premises by virtue of this Act; and that it shall be lawful to, and for any person or persons whatsoever, to come and go to and from such place or part of the said premises, when any distress for rent, shall be impounded and secured as aforesaid, in order to view, appraise and buy, and also in order to carry off, or remove the same on account of the purchase thereof; and that if any pound, breach or rescous, shall be made of any goods and chattels, or stock distrained for rent and impounded, or otherwise secured by virtue of this Act, the person or persons aggrieved thereby, shall have the like remedy as in cases of pound breach, or rescous is given and provided by this Act.

Justices may be secured and sold on the premises.

XV. And to obviate some difficulties that many times occur  
in

Rents how to be recovered where the demises are not by Deed.

in the recovery of rents, when the demises are not by deed.—  
*Be it further enacted,* That it shall and may be lawful to and for the landlord or landlords, where the agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements, or hereditaments, held or occupied by the defendant or defendants, in an action on the case for the use and occupation of what was so held or enjoyed, and if in evidence on the trial of such action, any parole, demise or any agreement (not being by deed) whereon a certain rent was reserved shall appear, the plaintiff in such action shall not therefore be non-suited, but may make use thereof, as an evidence, of the quantum of damages to be recovered.

4 Geo. 2, C. 28, § 1.

Persons holding over lands, &c. after expiration of Leases, to pay double the yearly value.

Sec 3. Bur. 1603.  
5. Bur. 2698.  
Doug. 167.

*XVI. And be it further enacted,* That in case any tenant or tenants for any term of life, lives, or years, or other person or persons, who are, or shall come into possession of any lands, tenements, or hereditaments, by, from, or under, or by collusion with such tenant or tenants, shall wilfully hold over any lands, tenements, or hereditaments, after the determination of such term or terms, and after demand made and notice in writing given for delivering the possession thereof, by his or their landlords or lessors, or the person or persons to whom the remainder or reversion of such lands, tenements, or hereditaments, shall belong, his or their agent or agents, thereunto lawfully authorized, then and in such case, such person or persons so holding over, shall, for and during the time he, she, or they shall so hold over, or keep the person or persons entitled, out of possession of the said lands, tenements and hereditaments as aforesaid, pay to the person or persons, so kept out of possession, their executors, administrators or assigns, at the rate of double the yearly value of the lands, tenements, and hereditaments, so detained, for so long time as the same are detained, to be recovered in any Court of Record in this Province, having cognizance of the same, by action of debt, whereunto the defendant or defendants shall be obliged to give Special Bail, against the recovery of which said penalty there shall be no relief in equity.

11 Geo. 2. C. 19, § 18.

Tenants holding after the time they notify for quitting, to pay double rent.

Sec 3. Bur. 1603.

*XVII. And be it further enacted,* That in case any tenant or tenants shall give notice of his, her, or their intention to quit any premises by him, her, or them holden at a time mentioned in such notice, and shall not accordingly deliver up the possession thereof, at the time in such notice contained, that then the said tenant or tenants, his, her, or their executors or administrators, shall from thence forward pay to the landlord or landlords, lessor or lessors, double the rent or sum, which he, she, or they, should otherwise have paid, to be levied, sued for, and recovered at the same times and in the same manner, as the single rent or sum, before the giving such notice, could be levied, sued for or recovered, and such double rent or sum shall continue to be paid, during all the time such tenant or tenants shall continue in possession as aforesaid. *Provided always,* that when any houses, lands, tenements or hereditaments, shall be let by the year, three months notice; when by the month, one months notice; and when by the week, one weeks notice shall be given either

Notice regulated.

ther to the tenant in possession to quit, or by the tenant to the landlord, of an intention to quit as aforesaid.

XVIII. *And be it further enacted*, That in all actions of trespass, or upon the case to be brought against any person or persons entitled to rents of any kind, his, her or their bailiff or receiver, or other person or persons relating to any entry by virtue of this Act, or otherwise upon the premises chargeable with such rents, or to any distress or seizure, sale or disposal of any goods or chattels thereupon, it shall and may be lawful to and for the defendant or defendants in such actions to plead the general issue, and give the special matter in evidence, any Law, usage, or custom to the contrary notwithstanding—And in case the plaintiff or plaintiffs, in such action shall become non-suit, discontinued, his, her, or their action, or have judgment against him, her or them, the defendant or defendants shall recover double costs of suit.

§ 21  
Defendants may plead the general issue, &c.

XIX. *And be it further enacted*, That it shall and may be lawful for any person or persons having any rent in arrear, or due upon any lease, or demise, for life or lives, to bring an action or actions of debt for such arrears of rent, in the same manner as they might have done, in case such rent were due and reserved upon a lease for years.

8 Anne, C. 14. § 4.  
Debt may be brought against Tenant for life for rent.

XX. *And be it further enacted*, That it shall and may be lawful for any person or persons, having any rent in arrear, or due upon any lease, for life or lives, or for years, or at will, ended or determined, to distrain for such arrears, after the determination of the said respective leases in the same manner as they might have done if such lease or leases, had not been determined.

§ 5  
Rent in arrear upon a lease for life, &c. expired may be distrained for after the determination of the lease.

XXI. *Provided* that such distress be made within the space of six calendar months, after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the tenant from whom such arrears became due.

§ 7  
Distress to be within six months after the end of the lease and during the landlord's title and tenant's possession.

XXII. *And be it further enacted*, That in cases between landlord and tenant, as often as it shall happen that one half year's rent, shall be in arrear, and the landlord or lessor, to whom the same is due, hath right by Law, to re-enter for non-payment thereof, such landlord and lessor shall and may, without any formal demand or re-entry, serve a declaration in ejectment for the recovery of the demised premises, or in case the same cannot be legally served, or no tenant be in actual possession of the premises, then to affix the same upon the door of any demised messuage, or in case such ejectment shall not be for the recovery of any messuage, then upon some notorious place of the lands, tenements or hereditaments, comprized in such declaration in ejectment, and such affixing shall be deemed legal service thereof, which service or affixing such declaration in ejectment, shall stand in the place and stead of a demand and re-entry, and in case of judgment against the casual ejector, or non-suit for not confessing lease entry and ouster, it shall be

4 Geo. 2, C. 28.  
§ 2.  
On half a year's rent in arrear, Landlord may re-enter, serving declaration of ejectment.

Sec 1 Bur. 680.

made appear to the Court, where the said suit is depending by affidavit, or be proved upon the trial, in case the defendant appears, that half a years rent was due, before the said declaration was served, and that no sufficient distress was to be found on the demised premises, countervailing the arrears then due, and that the lessor or lessors, in ejection had power to re-enter, then and in every such case the lessor or lessors in ejection, shall recover judgment and execution in the same manner as if the rent in arrear, had been legally demanded, and a re-entry made; and in case the lessee or lessees, his, her, or their assignee, or assignees, or other person or persons, claiming or deriving under the said leases, shall permit and suffer judgment to be had and recovered in such ejection and execution, to be executed thereon without paying the rent and arrears, together with full costs, and without filing any bill or bills, for relief in equity, within six calendar months after such execution executed, then and in such case the said lessee or lessees, his, her or their assignee or assignees, and all other persons claiming and deriving under the said lease, shall be barred and foreclosed from all relief or remedy in law or equity, other than by writ of error, for reversal of such judgment, in case the same shall be erroneous, and the said landlord or lessor, shall from thenceforth hold the said demised premises discharged from such lease, and if in such ejection verdict shall pass for the defendant or defendants, or the plaintiff or plaintiffs shall be non-suited therein, except for the defendant or defendants not confessing lease, entry and ouster, then in every such case such defendant or defendants shall have, and recover his, her and their full costs. *Provided always,* that nothing herein contained, shall extend to bar the right of any mortgagee or mortgagees of such lease, or any part thereof, who shall not be in possession, so as such mortgagee or mortgagees, shall and do within six calendar months after such judgment obtained, and execution executed, pay all rent in arrear, and all costs and damages sustained by such lessor, person or persons intitled to the remainder or reversion as aforesaid, and perform all the covenants and agreements which on the part and behalf of the first lessee or lessees, are and ought to be performed.

When lessor in ejection may recover judgment, &c.

Not to bar the right of any Mortgagee.

§ 3  
Lessees filing Bill in Equity, not to have an injunction against proceedings at Law, &c.

XXIII. *And be it further enacted,* That in case the said lessee or lessees, his, her, or their assignee or assignees, or other person or persons claiming any right, title, or interest, in law or equity, of, in or to the said lease, shall within the time aforesaid, file one or more bill or bills for relief in any Court of Equity, such person or persons, shall not have or continue any injunction against the proceedings at law on such ejection, unless he, she, or they, do or shall within forty days next after a full and perfect answer, shall be filed by the lessor or lessors of the plaintiff in such ejection, bring into Court, and lodge with the proper officer, such sum and sums of money as the lessor or lessors of the plaintiff in the said ejection, shall in his, her, or their answer, swear to be due, and in arrear, over and above all just allowances, and also the costs taxed in the said suit, there to remain till the hearing of the cause, or to be paid out to the lessor or landlord, on good security, subject to the decree of the Court; and in case such bill or bills shall be filed within the time aforesaid,



aforsaid, and after execution is executed, the lessor or lessors of the plaintiff, shall be accountable only for so much and no more, as he, she or they shall really and *bona fide*, without fraud, deceit or wilful neglect, make of the demised premises, from the time of his, her or their entering into the actual possession thereof, and if what shall be so made by the lessor or lessors of the plaintiff happen to be less than the rent reserved on the said lease, then the said lessee or lessees, his, her, or their assignee or assignees, before he, she, or they shall be restored to his, her, or their possession or possessions, shall pay such lessor or lessors, or landlord or landlords, what the money so by them made, fell short of the reserved rent for the time such lessor or lessors of the plaintiff, landlord or landlords held the said lands.

XXIV. *Provided always, and be it further enacted, That if* <sup>Tenant paying all rent with costs, proceedings to cease.</sup> the tenant or tenants, his or their assignee or assignees, do or shall at any time before the trial in such ejection, pay or tender to the lessor or landlord, his executors or administrators, or his, her or their Attorney in that cause, or pay into the Court where the same cause is depending, all the rent and arrears, together with the costs; then and in such case all farther proceedings on the said ejection, shall cease and be discontinued; and if such lessee or lessees, his, her or their executors, administrators or assigns, shall, upon such bill filed as aforesaid, be relieved in equity, he, she, or they, shall have, hold, and enjoy the demised lands according to the lease thereof made, without any new lease to be thereof made to him, her or them.

XXV. *And whereas* the expences attending the process in suing out Replevin in the Courts of Record in cases of trespasses, by horses, neat cattle, sheep, goats and swine, where the value of the damages does not exceed *forty shillings*, should be prevented.

*Be it further enacted, That in all cases where a trespass or supposed trespass, shall have been committed by horses, neat cattle, sheep, goats, or swine, and the value of the damages alleged to be suffered, shall not exceed the sum of forty shillings, the same shall be heard and tried by one Justice of the Peace, in the same manner as in cases of debt to that amount.* <sup>Trespasses by Cattle, not exceeding 40s. may be tried by a Justice of the Peace.</sup>

XXVI. *And be it further enacted, That in all such cases as aforesaid, where it may become necessary, any Justice of the Peace in the County, shall grant a Replevin, and take security for prosecuting the same with effect within a term not exceeding seven days, which Replevin shall be directed to a Constable of the Parish in which the same is to be made, and shall be in the form following, to wit—* <sup>Justices of the Peace may grant replevin in all cases as aforesaid where it may be necessary.</sup>

You are hereby commanded to replevy to A. B. his which C. D. unjustly as is alleged detains, under pretence of having committed a trespass not exceeding *forty shillings*; and also to summon the said C. D. to be, and appear before me on the      day of      at      o'Clock in the      noon, then to answer such things as shall be objected against him by the said A. B.—Witness my hand and seal this      day of

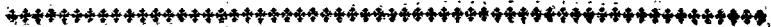
And shall hear the merits of the case between the parties and shall give judgment, and grant execution, as in other cases to the same

*Form of the Writ.*

same amount, and shall receive no more, nor greater fees, than in such other cases as aforesaid.

**XXVII.** *And be it further enacted,* That the Clerk's Courts in the several and respective Counties, and the City Court in the City of *Saint John*, shall have the like powers as are given in the two last preceding Sections; to a Justice of the Peace, and shall and may proceed in the like cases, according to the form and course of proceedings in such Courts respectively.

The Clerk's Courts to have the same powers as Justices.



CAP. XXII.

An ACT to prevent the destruction of Moose on the Island of Grandmanan. Passed the 14th of March, 1810.

Preamble.

**WHEREAS** the preservation of the breed of Moose on the Island of *Grandmanan*, may be beneficial to those who carried the first pair of Moose to said Island, and also highly useful, not only to the inhabitants of said Island, but of the whole Province.

No Moose to be killed on Grandmanan.

**I.** *Be it therefore enacted by the President, Council, and Assembly,* That from and after the passing of this Act, no person or persons whosoever, shall under any pretence whatsoever, take, kill, wound, or otherwise destroy any Moose on the Island of *Grandmanan*, except as hereinafter provided.

Offenders against this Act to forfeit fifteen pounds.

**II.** *And be it further enacted,* That every person who shall take, kill, wound, or destroy any Moose, or shall sell or expose to sale, or buy, or cause to be bought, or shall have in his, or her possession, any Moose, or the skin or flesh, or any part of the skin or flesh of any Moose so taken, killed, wounded, or destroyed, shall for each and every offence, forfeit and pay the sum of *fifteen pounds*, to be recovered with costs by action of debt, bill, plaint, or information in the Inferior Court of Common Pleas, for the County of *Charlotte*, one half, upon recovery thereof, to be paid to the Overseers of the Poor, for the use of the Poor of the said Island, and the other half to the person who shall inform and sue for the same.

Not to prevent Moses Gerrish from killing, or permitting to be killed such number of Moose as the Justices in Sessions shall direct.

**III.** *Provided always, and be it further enacted,* That nothing in this Act shall be construed to extend to prevent *Moses Gerrish*, the original importer of the said Moose, from giving licence and permission to kill a certain number of Moose, in each and every year, such number to be directed by the Justices, in their Sessions, in the County of *Charlotte*, as they in their discretion shall think fit.

Limitation.

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

## CAP. XXIII.

An ACT to explain and amend the Laws now in force for regulating the exportation of Fish and Lumber. Passed the 14th of March, 1810.

**W**HEREAS the regulations contained in an Act, made and <sup>Preamble.</sup> passed in the thirty-seventh year of His MAJESTY'S Reign, intituled "An Act for regulating the exportation of Fish and Lumber, and for repealing the Laws, now in force, regulating the same"—and in another Act made and passed in the forty-third year of His MAJESTY'S Reign, intituled "An Act to explain and amend an Act, intituled an Act for regulating the exportation of Fish and Lumber, and repealing the Laws, now in force, regulating the same," have been found ineffectual for the purposes thereby intended.

I. *Be it therefore enacted by the President, Council, and Assembly,* That the fourth and sixth Sections of the first of the said <sup>4th and 6th Sections of the former Act repealed.</sup> herein before recited Acts be, and the same are hereby repealed.

II. *And be it further enacted,* That all boards, planks, and scantling for exportation, shall before they are shipped, be surveyed by a sworn Surveyor; all merchantable boards shall be square edged with the saw, and be seven-eighths of an inch <sup>Merchantable boards to be square edged, and 7-8 of an inch thick.</sup> thick, except those for *Newfoundland*, and *Kingston*, Jamaica, <sup>For Newfoundland and Kingston to be an inch.</sup> markets, which shall be one inch thick, and all clear boards shall be one inch thick. No board or plank shall be deemed merchantable, if the same be split at both ends, or be split more <sup>What shall be deemed merchantable.</sup> than one eighth of the length of such board or plank, or be not of equal thickness throughout, and free of wind shakes and knot holes, and one half the split shall be allowed for splits, all boards and planks shall be marked at the butt end, and the full contents marked on each board and plank, and all sawed scantling <sup>Boards and sawn scantling to be marked.</sup> shall be squared, and the contents in board measure marked on each piece; no more than two hundred feet board measure of plank, shall be allowed to one thousand feet of boards; the Surveyor shall carefully examine each side of every board, plank, or scantling, and shall be allowed *one shilling* per thousand feet <sup>Two hundred feet of plank to every thousand feet of boards.</sup> for surveying, to be paid by the purchaser; and all persons shipping boards, planks, or scantling, not so marked and surveyed, shall forfeit and pay *ten shillings* for every thousand feet so shipped by them. <sup>Penalty for shipping boards not marked.</sup>

III. *And be it further enacted,* That no squared Timber for the British market, shall be deemed merchantable, that is less <sup>What shall be deemed merchantable timber for the British market.</sup> than ten inches square, or shorter than sixteen feet, free from joints, smoothly hewn, and well squared, free from bark, shakes and rotten knots; no log less than fourteen inches square, shall have more than one inch wane, and no log above fourteen inches square, and not exceeding twenty inches square, shall have more than two inches of wane, and all logs above twenty inches square, shall not have more than three inches wane, to be measured on the wane, and such timber (spruce excepted) shall not

taper more than one inch to every fourteen feet in length; and no log shall have a sweep unless it has two straight sides; that the Surveyor shall cause every log to be canted and carefully examine every side thereof, he shall survey no log until it is square butted, he shall mark the contents in figures on the butt end of every log, with the purchasers mark, and his own initials, and shall be liable to a prosecution by the party injured, and to a forfeiture not exceeding *five shillings* per ton, for every log he may pass contrary to the provisions of this Act, he shall furnish the purchaser and seller immediately with a survey bill, and shall keep a book of entries of all lumber surveyed by him, noting the time of such survey, and the persons from whom and to whom it was surveyed, to be referred to at any time as evidence of such survey: It shall be lawful for a Surveyor to survey lumber in any part of the County in which he is appointed, and for extra services required by virtue of this Act, the Surveyor shall be paid at the rate of *eight pence* per ton, instead of *six pence* heretofore allowed, except for timber surveyed in the City and County of *Saint John*, which allowance shall be paid by the purchaser.

Logs to be square butted and marked on the butt end.

Surveyors to keep entries of Lumber surveyed.

Merchantable lath-wood.

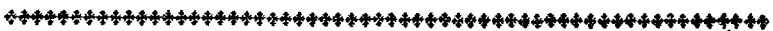
IV. *And be it further enacted*, That no lathwood shall be deemed merchantable, unless it be square butted, of straight rift, free of bark, knots and heart.

V. And whereas some evil disposed persons are in the practice of plugging timber and masts, for the purpose of passing such timber or masts by such deceptions as merchantable: *Be it therefore enacted*, that any person convicted of plugging any timber or masts, where any defect is covered by such plugging, shall be liable to pay a fine of *forty shillings*, for each and every offence, which penalty as well as the penalties before inflicted by this Act, shall be recovered before any one of His MAJESTY'S Justices of the Peace, with costs of suit, upon the oath of one or more credible witness or witnesses, and levied by Warrant of distress and sale of the offender's goods and chattels, rendering the overplus (if any) after deducting the costs and charges of prosecution to the offender, one half such penalties to be for the benefit of the person complaining, and the other half for the benefit of the poor of the Parish, where such offence shall be committed.

Forty shillings penalty for plugging masts or timber.

Former Acts continued in force.

VI. *And be it further enacted*, That the herein before recited Acts and every part of the same, not hereby repealed, altered or amended, be, and remain in full force and virtue, any thing herein contained to the contrary notwithstanding.



CAP. XXIV.

An ACT to authorise the Justices of the Peace in their General Sessions, to establish Ferries in their respective Counties. Passed the 14th of March, 1810.

WHEREAS

**W**HEREAS it is often found difficult for travellers in passing to the different parts of the Province to cross rivers and creeks for want of proper establishments of Ferries. Preamble.

*Be it therefore enacted by the President, Council, and Assembly,* That the Justices in their General Sessions of the Peace for each County, shall be, and are hereby authorised and empowered to establish such Ferries over rivers, bays, and creeks; within their respective Counties, as may be by them thought necessary in places where the same are not already established by grants from the Crown. *Provided always,* that this Act or any thing therein contained, shall not extend, or be construed to extend to restrain, or any wise affect the right of the KING's Majesty, his Heirs and Successors, to make any grant or grants of any Ferry or Ferries, in places where the same may be found necessary. *Provided also,* that this Act shall continue and be in force six years and no longer. Justices may establish Ferries in their respective Counties. Not to restrain or affect the King's rights.

\*\*\*\*\*

CAP. XXV.

An ACT to repeal an Act, intituled "An Act to render Justices of the Peace more safe in the execution of their duty." Passed the 14th of March, 1810.

**W**HEREAS Justices of the Peace are rendered sufficiently safe in the execution of their duty, by the Act of Assembly, passed in the forty-first year of His MAJESTY's Reign, intituled "An Act for the rendering Justices of the Peace more safe in the execution of their office; and for indemnifying Constables and others acting in obedience to their warrants." Preamble.

*Be it therefore enacted by the President, Council, and Assembly,* That an Act passed in the forty-seventh year of His MAJESTY's Reign, intituled "An Act to render Justices of the Peace more safe in the execution of their duty," be, and the same is hereby repealed. *Provided always,* that this Act shall have no retrospective force or operation. Former Law repealed.

\*\*\*\*\*

CAP. XXVI.

An ACT in addition to an Act, intituled "An Act for the more effectual prevention of desertion from His Majesty's Forces." Passed the 14th of March, 1810.

**W**HEREAS an Act, made and passed in the forty-fifth year of His MAJESTY's Reign, intituled "An Act for the more effectual prevention of desertion from His Majesty's Forces," has provided that the rewards to be given for apprehending deserters, shall not in any one year exceed *one hundred* Preamble.

hundred pounds: And whereas from the augmentation of the number of troops, since the passing of the said Act, the said sum of one hundred pounds has been found in some instances insufficient for the purpose of giving the rewards for apprehending all the deserters.

Rewards may be given to the amount of one hundred and fifty pounds per annum.

Be it therefore enacted by the President, Council, and Assembly, That the said sum of one hundred pounds, mentioned in the said Act, be increased to the sum of one hundred and fifty pounds; so that the rewards so to be given out of the Province Treasury may amount to, but shall not in any one year exceed the said sum of one hundred and fifty pounds.



CAP. XXVII.

An ACT to declare the qualifications of Church Wardens, and Vestrymen, in the several Parishes in this Province, and of the Persons having voices in their election. Passed the 14th of March, 1810.

Inhabitants in the several Parishes who are members of the Church of England, or attend divine service therein, or are owners or proprietors of Pews in the Church eligible as Wardens and Vestrymen, and to have votes and no other persons.

BE it enacted by the President, Council, and Assembly, That the inhabitants of the several and respective Parishes in this Province, who are Members of the Church of England, or who do, or shall regularly attend divine service in, and according to the forms, rites and ceremonies of the same Church, in the Parish where they shall or may be resident, or who shall be owners or proprietors of Pews in such Church, shall and may be qualified, and capable to be elected and appointed, and to have and hold the said offices or places of Church Wardens, and of Vestrymen, and also to have voices and votes in the election of all such Church Wardens and Vestrymen, in the several Parishes in which they shall respectively reside as aforesaid; and that no other person or persons whosoever, shall be qualified, or capable to hold or enjoy the said offices or places, or any, or either of them, or shall have voice or vote in the election, or appointment of any such Church Wardens or Vestrymen, in any Parish in this Province: any Law, usage, or custom to the contrary notwithstanding.



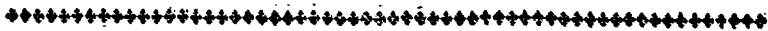
CAP. XXVIII.

An ACT to repeal an Act, intituled " An Act to make more effectual provision for repairing the Aboideau or Bridge across the Marsh Creek, in the City and County of Saint John. Passed the 14th of March, 1810.

Act repealed.

BE it enacted by the President, Council, and Assembly, That the Act made and passed in the forty eighth year of His MAJESTY'S Reign, intituled " An Act to make more effectual provision

“ vision for repairing the Aboideau or Bridge, across the Marsh  
“ Creek in the City and County of *Saint John,*” be, and the  
same is hereby repealed.

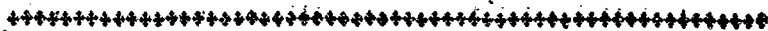


CAP. XXIX.

An ACT to revive and continue sundry Acts of the  
General Assembly, that have expired. Passed  
the 14th of March, 1810.

*BE it enacted by the President, Council, and Assembly, That*  
an Act made and passed in the forty-first year of His MAJESTY'S  
Reign, intituled “ An Act for preserving the bank of the River  
“ Saint John, in front of the Parish of *Lincoln,* in the County of  
“ *Sunbury.*” Also, an Act made and passed in the forty-first year  
of His MAJESTY'S Reign; intituled “ An Act to continue an Act  
“ for preserving the bank of the River Saint John, in front of the  
“ Parishes of *Maugerville, Sheffield* and *Waterborough,*” be, and  
the same are hereby revived and declared to be in full force for  
six years and no longer.

Acts for preserving  
the bank of the River  
in front of Lin-  
coln,  
and in front of Mau-  
gerville, Sheffield,  
and Waterborough,  
continued for six  
years.



CAP. XXX.

An ACT to revive and make perpetual an Act, in-  
tituled “ An Act for the support and relief of  
confined debtors,” and further to extend the  
provisions of the same. Passed the 14th of  
March, 1810.

*See The Act  
p. 305 of  
The 8vo Edit.  
and also  
Stat. 41 Geo 3.  
cap. 5. in The  
Book. -*

**W**HEREAS an Act made and passed in the forty-first year  
of His MAJESTY'S Reign, intituled “ An Act for the  
“ support and relief of confined debtors,” has lately expired;  
And whereas the support and relief intended by the said Act,  
have been found expedient and necessary; And whereas it is  
deemed expedient further to extend the provisions of the  
said Act.

Preamble.

I. *Be it therefore enacted by the President, Council, and Assem-  
bly,* That the said Act shall be revived and continued, and the  
same is hereby declared to be revived, and to be in full force,  
and made perpetual.

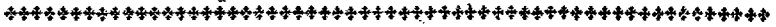
Made perpetual.

II. *And be it further enacted,* That each and every debtor  
committed to Gaol in execution upon any Judgment recovered  
before any Justice of the Peace, in such Justices Court, shall  
be intituled to the benefit of the said Act; and such Justice, or  
any other Justice of the Peace of the County, in the Gaol of  
which the debtor shall be confined, upon such application, no-  
tice, and examination, as are prescribed in the cases mentioned  
in the said Act, shall make the like orders for the relief of such  
debtor,

Extended to debtors  
in execution upon  
judgments recovered  
before a Justice of  
the Peace.

debtor, in every respect as if the execution against such debtor, had issued out of either of the Courts mentioned in the said Act.

Persons swearing falsely, liable to the punishment of perjury. III. *And be it further enacted*, That every person who being sworn, under and by virtue of the provisions of this Act, shall be convicted of making or taking a false oath to any of the facts to which he may be required to swear, 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.



CAP. XXXI.

An ACT to provide for the erection of Fences, with gates across Highways, leading through intervale lands in Queen's County, and the County of Sunbury, where the same may be found necessary.--- Passed the 14th of March, 1810.

Upon application of any proprietor of intervale lands in Queen's or Sunbury to two Justices of the Peace, five disinterested Freeholders to be appointed who shall examine and report on oath to the Sessions.

I: *BE it enacted by the President, Council, and Assembly*, That when any proprietor or occupant of any intervale lands in Queen's County, or the County of Sunbury, over which any Highway, or Public Road passes, shall think it necessary or expedient for the protection of such intervale land, that a fence or fences should be erected across such road or highway, with a swinging gate or gates therein, and with a fence or fences extending into the water, from the place or places where such road or highway may require fencing (if the same shall be at or near the shore of any river or other water,) it shall and may be lawful for such proprietor or occupant, to prefer a petition to any two of His MAJESTY'S Justices of the Peace in the said respective Counties, stating particularly the object and grounds of such application, and praying for permission to erect such fence or fences; upon the presenting whereof, the said Justices are authorised and required forthwith, by order thereon, indorsed to appoint five substantial and disinterested freeholders of the said respective Counties, not resident in the Town or Parish in which such fence or fences, is or are proposed to be erected, to be Commissioners to examine and report upon such petition, which Commissioners shall be sworn to the faithful discharge of their trust, before the said Justices or either of them, a certificate of which shall be indorsed upon the same petition: And the said Commissioners shall thereupon proceed to view the said place or places where the same fence or fences are proposed to be erected, and to report thereon in writing, to the then next Court of General Sessions of the Peace for the said respective Counties: And if it shall appear to the Justices of such Court from the report so made by the said Commissioners, or by any three of them, that it is necessary or expedient that the fence or fences prayed for, should be erected, they are hereby authorised and required to make an order for the erection of such fence or fences, with a good convenient swinging gate or gates in the same where such fence or fences cross the road, and to make such

If it appear to the Sessions necessary or expedient, licence may be granted to erect the fence with a gate.



such further order respecting the same as to them shall seem meet; and that it shall be lawful for the person or persons so petitioning at his, her or their own expence to erect such fence or fences, with such swinging gate or gates, agreeably to the directions of the said Court.

II. *And be it further enacted,* That if any person or persons shall break, or throw down, or in any way destroy any fence or fences so to be erected, or any part thereof; or shall block up and fasten, or stake open, or take down, or destroy any gate or gates which may be erected by virtue and in pursuance of this Act, such offender or offenders shall upon conviction thereof, before any one of His MAJESTY'S Justices of the Peace, of the said Counties respectively, upon the oath of one or more credible witness or witnesses, forfeit and pay the sum of *twenty shillings*, for each and every offence, to be levied with costs by warrant of distress and sale of the offenders goods, under the hand and seal of such Justice, directed to either of the Constables within the said respective Counties, and for want of goods whereon to levy the same, the offender or offenders shall be committed to the common gaol of the County, there to remain for the space of five days, unless the said sum with costs be sooner paid; which forfeiture when recovered, shall be paid into the hands of the Overseers of the Poor of the Parish, where the offence shall be committed, for the use of the said Poor; and such offender or offenders shall be further liable for all damages sustained thereby, to be recovered with costs by action or actions, at the suit of the party injured. *Provided always,* that if any gate or gates erected by virtue, or in pursuance of this Act, shall not be kept in good repair by the proprietor or proprietors thereof, at his, her, or their own expence, he, she, or they shall have no benefit or advantage from this Act.

Persons breaking or destroying the fence, or fastening up, staking open, or destroying the gate to forfeit twenty shillings.

To the use of the Poor.

And be liable for all damages.

If gates are not kept in repair, the Proprietor to have no benefit of this Act.

III. *Provided always, and be it further enacted,* That whenever it shall appear to the said Justices in General Sessions by the report of any three or more of five Commissioners (freeholders as aforesaid) to be appointed and sworn in manner as aforesaid, that the reason for erecting any such fence or fences, has ceased to exist, it shall and may be lawful for the said Justices in their General Sessions to order such fence or fences to be removed; and the proprietor or proprietors of such fence or fences, shall not after such order, have any further benefit or advantage from this Act; and the continuance of such fence or fences, shall thereafter be considered and adjudged to be a nuisance upon the highway.

The fence to be removed when the reason for erecting it ceases.

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

Limitation.

\*\*\*\*\*

CAP. XXXII.

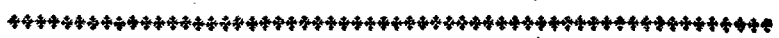
An ACT for regulating the Importation of certain Articles into this Province. Passed the 14th of March, 1810. WHEREAS

Preamble. **W**HEREAS Importations have been, and still are made into this Province, chiefly for exportation; and whereas it is expedient to lay a duty on such imports for the purpose of encreasing the Revenue.

Articles imported from the United States subject to five per cent duty. Excepting provisions. **I.** *Be it enacted by the President, Council, and Assembly,* That all articles hereafter imported or brought into this Province from the United States, be, and are hereby made subject and liable to a duty of five per cent on the amount or value thereof, estimated at the first cost or value. *Provided always,* that no Sheep or Neat Cattle, or other articles under the description of Provisions, shall be subject to any duty.

Importer to report immediately to the Treasurer or his deputy, with an invoice of the first cost on oath, under the penalties prescribed by the third Section of the Revenue law. And pay or secure the payment of the duties. **II.** *And be it further enacted,* That the duty, so to be levied, shall be collected by the Treasurer or his Deputy in the different Counties; and that it shall be the duty of every person importing or bringing any articles made liable to duty by virtue of this Act, to report the same immediately to the Treasurer or his Deputy as aforesaid, with an invoice of the first cost of the same, on oath, under the same pains and penalties for neglect or refusal so to do as are prescribed in and by the third Section of an Act, made and passed in the forty seventh year of His MAJESTY'S Reign, intituled "An Act for raising a Revenue in this Province," and that such person shall pay the amount of such duties, or give security for payment of the same, in the same manner and in the same proportions and under the same pains and penalties as are prescribed in the said in part recited Act.

Limitation. **III.** *And be it further enacted,* That this Act shall be and remain in full force for the term of two years and no longer.



CAP. XXXIII.

An ACT to continue the establishment of County Schools, as provided for by an Act, intituled "An Act for encouraging and extending Literature in this Province." Passed the 14th of March, 1810.

Preamble. **W**HEREAS in and by the ninth, tenth, eleventh, twelfth, and thirteenth Sections of an Act made and passed in the forty fifth year of His MAJESTY'S Reign, intituled "An Act for encouraging and extending Literature in this Province," provision is made for establishing for six years, Schools in the several Counties in this Province. And whereas it is expedient that the said establishment be further continued.

Continued for five Years, from 5th of March, 1811. *Be it therefore enacted by the President, Council, and Assembly,* That the said establishment of County Schools, and the Provision made for the same as aforesaid, be, and the same is hereby continued for the further term of five years from the fifth day of March, which will be in the year of our Lord one thousand eight hundred and eleven.

CAP. XXXIV.

## CAP. XXXIV.

An ACT to appropriate a part of the Public Revenue for the services therein mentioned. Passed the 14th of March, 1810:

I. *BE it enacted by the President, Council, and Assembly, That* there be allowed and paid out of the Treasury of this Province, unto the several persons hereafter mentioned, the following sums, to wit,

To the Speaker of the House of Assembly, the sum of *fifty* Speaker. *pounds.*

To the Members of the House of Assembly, for defraying the Members. expences of their attendance, during the present Session; and for travelling charges, reckoning twenty miles to each days travel, to be certified by the Speaker *ten shillings* per diem.

To the Chaplain of the Council in General Assembly, the Chaplains. sum of *twenty pounds.*

To the Chaplain of the House of Assembly, the sum of *twenty pounds*, and the further sum of *five pounds* for his travel and expences.

To the Clerk of the Council in General Assembly, and to the Clerks of the Council and Assembly. Clerk of the House of Assembly, *fifty pounds* each, and *ten shillings* per diem each, during the present Session.

To the Serjeant at Arms attending the Council in General Serjeants at Arms. Assembly, and to the Serjeant at Arms attending the House of Assembly, *ten shillings* per diem each, during the present Session.

To the Door keepers and Messengers attending the Council Door keepers and Messengers. and Assembly *seven shillings and six-pence* per diem each, during the present Session.

To the Treasurer of the Province for his services, from the Treasurer of the Province. first day of May, one thousand eight hundred and eight, to the first day of March, one thousand eight hundred and nine, the sum of *two hundred and twenty pounds*, and from the first day of March, one thousand eight hundred and nine, to the first day of March, one thousand eight hundred and ten, the like sum of *two hundred and twenty pounds.*

To the Tide Surveyor in the City of Saint John, from the first Tide Surveyor. day of March, one thousand eight hundred and eight, to the first day of March, one thousand eight hundred and nine, for his services and expences in performing the same, the sum of *forty pounds*, and the like sum of *forty pounds* for his services, from the first day of March, one thousand eight hundred and nine, to the first day of March, one thousand eight hundred and ten.

To Edward Goldstone Lutwyche, Esquire, for his past services, Province Agent. as agent for the Province, the sum of *two hundred pounds* sterling.

- Provincial Contingencies. To His Honor the President or Commander in Chief, for defraying the contingent expences of this Province, a sum not exceeding *one hundred pounds* for the year one thousand eight hundred and ten; and a further sum of *one hundred pounds* for the year one thousand eight hundred and eleven.
- Chair of State. Also a sum not exceeding *thirty guineas*, for the purpose of procuring a suitable Chair of State, for the accommodation of the King's Representative in the Council Chamber of the Province Hall.
- For apprehending deserters. Also a further sum not exceeding *one hundred and fifty pounds*, for rewarding such Persons as shall apprehend Deserters, according to a Law of this Province.
- Royal Arms. Also a further sum not exceeding *thirty guineas* for the purpose of procuring the Royal Arms, to be placed in the Council Chamber, Supreme Court, and House of Assembly in the Province Hall.
- Expences incurred on the Road from Fredericton to Saint John. Also a further sum of *one hundred and fifty four pounds, eighteen shillings and two pence*, for discharging the expences already incurred, in facilitating a Military communication, by opening and repairing Roads from Fredericton towards Saint John.
- Road from Fredericton to Belleisle. Also a further sum not exceeding *five hundred pounds*, to be laid out in opening and repairing the Road from Fredericton to the head of the Belleisle.
- For removing the Split Rock. Also a further sum of *two hundred pounds* to be laid out in removing the Split Rock in the Falls, if on the report of the Commissioners, His Honor the President should think proper.
- Indian Missionary. Also a further sum of *fifty pounds* sterling, for the purpose of paying a Missionary to the Indians, for the year one thousand eight hundred and ten, and the like sum for the year one thousand eight hundred and eleven.
- Grammar School at St. John. To the President and Directors of the Grammar School in the City of Saint John, the sum of *one hundred pounds* for the salary of the Master of the same, for the year one thousand eight hundred and ten, and the like sum for the year one thousand eight hundred and eleven.
- Fredericton college. To the Governor and Trustees of the College in Fredericton, to be applied by them towards the tuition of the Pupils of said College, the sum of *one hundred pounds*, for the year one thousand eight hundred and ten, and the like sum for the year one thousand eight hundred and eleven.
- County Schools. To the Justices of the Peace of the different Counties in this Province, the sum of *three hundred and seventy five pounds*, for County Schools, for the year one thousand eight hundred and ten, and the like sum for the year one thousand eight hundred and eleven, agreeably to a Law of this Province.
- Adjutants of Militia. To the Adjutants of the Militia in the different Counties in this Province, a sum not exceeding *one hundred and eighty five pounds*

*pounds* for the year one thousand eight hundred and ten, and the like sum for the year one thousand eight hundred and eleven, agreeably to a Law of this Province.

To the Keeper of the Light House on Partridge Island, the Keeper of the Light House on Partridge Island, sum of *eighty pounds*, for his services for the year one thousand eight hundred and ten, and the like sum for the year one thousand eight hundred and eleven; such sums to be paid on the Keeper's producing to the Treasury of the Province, the Certificate of the Commissioners of the Light House, that the light in said Light House, has been well and faithfully kept.

To Mrs. Mary Upham, the widow of the late Justice Upham, Mrs. Mary Upham and Miss Elizabeth Upham, the sum of *two hundred pounds*; also to Miss Elizabeth Upham his eldest daughter, the sum of *one hundred pounds*.

To Mrs. Tilton, in consideration of her situation represented Mrs. Tilton, in her petition, the sum of *twenty five pounds*.

To William Pagan, Esquire, to reimburse him for sundry postages of public letters, the sum of *seven pounds ten shillings*. William Pagan for postage.

To the Honorable Mr. Odell, Secretary of the Province for past services, *one hundred pounds*. Secretary of the Province.

To the Honorable Mr. Sproule, Surveyor General, for past services, the sum of *one hundred pounds*. Surveyor General.

To the Adjutant General of the Militia for past services, including Stationary, and other expences, the sum of *one hundred pounds*. Adjutant General of the Militia.

To John Mount the sum of *one hundred pounds*. John Mount.

To Lieutenant-Colonel Wetmore, for defraying expences incurred in apprehending deserters from the Embodied Militia, stationed at Saint John in the year one thousand eight hundred and eight, the sum of *twenty two pounds eighteen shillings and three pence*. Col. Wetmore for apprehending Militia deserters.

To the Justices of the General Quarter Sessions of the Peace, for the City and County of Saint John, towards defraying the expences of adding to and repairing the Gaol of that City and County, the sum of *one hundred and fifty pounds*. Gaol of St. John.

To the Magistrates of the County of York, for completing the Gaol of that County, the sum of *seventy five pounds*. Gaol of York County.

To Jacob S. Mott for printing the Votes and Journals of the House, during the present Session, a sum not exceeding *thirty pounds*. Jacob S. Mott for printing.

To Jacob S. Mott in full for printing Laws, Journals, and Advertisements, a balance of *thirty six pounds seven shillings and six pence*.

To Charles Mac Alpin in full for building a Bridge across Akerley's brook, the sum of *sixteen pounds*. Bridge across Akerley's Brook.

Sheriffs of the several Counties for executing writs of Election, and returning the Members to serve in General Assembly, the following sums; to wit.

To the Sheriff of the City and County of Saint John, the sum of *twenty-nine pounds ten shillings*.

To the Sheriff of the County of Westmorland, *seven pounds five shillings*.

To the Sheriff of the County of Charlotte *fifteen pounds ten shillings*.

To the Sheriff of the County of Northumberland, *sixteen pounds five shillings*.

To the Sheriff of Queen's County, *nine pounds ten shillings*.

To the Sheriff of the County of York, *seventeen pounds ten shillings*.

To the Sheriff of the County of Sunbury, *sixteen pounds five shillings*.

Ryan and Durant for printing. To Ryan and Durant for printing blank Commissions and Life Certificates, *ten pounds ten shillings*.

Francis M<sup>c</sup>Beath for work at Province Hall. To Francis M<sup>c</sup>Beath the sum of *thirty eight pounds eighteen shillings and four pence*, being in full of a balance due to him for materials furnished and work done in the Province Hall.

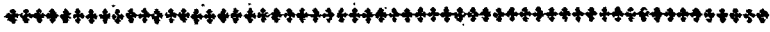
To purchase Books for the use of the Legislature. That a sum not exceeding *fifty pounds* be granted for the purpose of procuring the Statutes at large, and such other books as a Joint Committee of the Council and House of Assembly may think proper for the use of the Legislature.

Contingent expences of the Sessions. To the Clerk of the House of Assembly for fuel, stationary, and other expences, during the present Session, the sum of *one hundred and six pounds eight shillings and six pence*.

Samuel Duffy. To Samuel Duffy keeper of the Light House on Partridge Island, should he be removed from his situation, on account of age and infirmities, the sum of *twenty five pounds* for his support for the year one thousand eight hundred and ten, and the like sum for the year one thousand eight hundred and eleven.

St. Andrews Packet. That the sum of *one hundred and fifty pounds* be granted to such person or persons as His Honor the President or Commander in Chief shall appoint for the purpose of establishing the communication by a Packet between Saint John and Saint Andrews, from May one thousand eight hundred and ten, to May one thousand eight hundred and eleven, and the like sum of *one hundred and fifty pounds* for the same purpose from May one thousand eight hundred and eleven, to May one thousand eight hundred and twelve, under such regulations as His Honor the President shall think fit to direct, agreeably to a resolution agreed to by the Council and House of Assembly.

II. *And be it further enacted*, That all the before mentioned several sums of money, shall be paid by the Treasurer, by War-<sup>To be paid by the President's warrant.</sup> rant of His Honor the President or Commander in Chief for the time being, by and with the advice of His MAJESTY'S Council, out of the monies now in the Treasury, or as payments may be made at the same.



CAP. XXXV.

An ACT to grant and appropriate certain sums of money for Roads and Bridges. Passed the 14th of March, 1810.

I. *BE it enacted by the President, Council, and Assembly*, That there be allowed and paid out of the Treasury of this Province to such person or persons as His Honor the President or Commander in Chief for the time being, shall appoint, the following sums, for the purposes hereafter mentioned, that is to say,

The sum of *fifty pounds* towards building a Bridge across <sup>Bridge across Dennis's Stream.</sup> Dennis's stream.

The sum of *twenty five pounds* towards building a Bridge <sup>Oak Bay.</sup> across an arm of the Sea at Oak-Bay.

The sum of *one hundred and fifty pounds* towards building a <sup>Buckabeck Bridge and Digadequash Road.</sup> Bridge across the arm of the Sea called Buckabeck, and opening the Road from thence to Digadequash, and towards Samuel Kelley's on the Magagaugadavic.

The sum of *one hundred pounds* towards building a Bridge <sup>Wahwig Bridge.</sup> across the arm of the Sea called Wahwig. 14/200  
15/10  
60  
56

The sum of *seventy five pounds* towards completing the com-<sup>Magagaugadavic portage to Fenfield.</sup> munication from Magagaugadavic portage to the settlements in Penfield.

And the sum of *twenty five pounds* to assist the Emigrants of <sup>Bridge across Moan-</sup> the Bass-wood-ridge, in building a Bridge across the Moannas-<sup>na.</sup> stream, to communicate with the settlements of St. Stephen's Parish.

The sum of *two hundred pounds* for repairing the Road from <sup>From Petoudiac to Chediac.</sup> the bend of the River Petoudiac to Chediac harbour.

The sum of *one hundred pounds* for repairing the Road from <sup>From Chediac to Memramcook bridge.</sup> Chediac to Memramcook Bridge.

The sum of *one hundred pounds* for repairing the Road from <sup>From Blakeney's through part of Moncton, and</sup> David Blakeney's through the upper part of the Township of Moncton.

The sum of *seventy five pounds* for repairing the Road from <sup>Towards Carlises,</sup> said Blakeney's towards Robert Carlises.

- And to New-Canaan. And the sum of *fifty pounds* for repairing the Roads from the said Blakeney's to the settlements at New-Canaan.
- From the Grand Lake to the Washademoak. The sum of *twenty pounds* for completing the Road from the Grand Lake to the Washademoak Lake a little above the narrows.
- Thoroughfare between Grand Lake and Maquapit. The sum of *eighty pounds* for building a floating Bridge across the waters of the Thorough-fare, leading from the Grand Lake to the Maquapit Lake, and for making several Bridges and Causeys across certain low Meadows or Intervale Lands through which the Road passes to the River Saint John.
- New-Canaan to Studholmes. And the sum of *fifty pounds* towards opening a Road from the settlement at New-Canaan to communicate with the Road leading from Saint John to Westmorland near Studholmes Mill-Stream.
- Fredericton to Presque Isle. The sum of *one hundred and fifty pounds* for completing the Roads and Bridges from Fredericton to Presque-Isle.
- Road in Wakefield. The sum of *thirty pounds* towards completing the Road in the Parish of Wakefield.
- Phillis's Creek Bridge. The sum of *forty pounds* towards completing a Bridge over Phillis's Creek.
- Maductic Falls. The sum of *fifty pounds* for facilitating the Navigation of the Maductic Falls.
- Madamkeswick Bridge. The sum of *twenty five pounds* for building a Bridge across the Madamkeswick River.
- Nashwackis bridge. The sum of *fifty pounds* for re-building the Bridge over the Nashwackis Creek.
- Bridges in Lincoln. The sum of *seventy pounds* towards repairing two Bridges in the Parish of Lincoln.
- Causey through Street's meadow. The sum of *seventy pounds* towards completing the Causey in Burton, in the public Road leading through Mr. Street's meadow.
- South branch of Oromocto. The sum of *seventy pounds* to be laid out on the Road and Bridges on the south side of the Oromocto from Richard Kemble's to Daniel Smith's on the south branch of that River.
- Bridge at Loder's. The sum of *thirty pounds* for erecting a Bridge across the Creek near Loder's, in the Parish of Sheffield.
- Little River to French Lake. The sum of *ten pounds* to be laid out on the Road from Little River to the Road on the French Lake.
- From the Nashwack to Betts'. The sum of *one hundred pounds* to be laid out on the Road between the settlements on the River Nashwack and Betts' on the S. W. branch of the River Miramichi.
- From Mitchell's to Astle's on the Miramichi. The sum of *fifty pounds* to be laid out in repairing the Road on the north side of that branch from Lewis Mitchell's to John Astle's near the Forks or Etienne's River. The



The sum of *one hundred and fifty pounds* for opening a Road, From Etienne's River to the Elm Tree. and erecting Bridges from the Forks or Etienne's River on the north side of the said S. W. branch to the Elm Tree.

The sum of *twenty pounds* for opening a Road from Buc-From Bustouche to Cocagne. touche to Cocagne.

And the sum of *forty pounds* for opening a Road from Buc-To Richibucto. touche to Richibucto.

The sum of *fifty pounds* to be laid out on the Road from Ma-From Manawagonish to John Mount's. nawagonish to John Mount's.

The sum of *one hundred pounds* for building a bridge across the Bridge over the Musquash River. easterly branch of the Musquash River, near John Mount's house.

The sum of *fifty pounds* to be laid out on the Road from Ta-From Tabor's to Hopewell. bor's on Hammond River leading to the Parish of Hopewell.

The sum of *forty pounds* from Tabor's on Hammond River to To Quacco. the settlements at Quacco.

The sum of *twenty pounds* from Hopewell Road to Martin's From Hopewell to Martin's Head. Head.

The sum of *one hundred pounds* to be laid out on the Road From St. John to the French Village. from the City of Saint John to the French Village.

The sum of *forty-five pounds* to be laid out on the Road from From Dipper Harbour to Musquash. Dipper Harbour to the settlements at Musquash.

The sum of *one hundred pounds* to be laid out on that part of From Dorchester Manor to the Musquash Road. the Public Road between Dorchester Manor and the Road leading from the City of Saint John to Musquash, with which it communicates.

The sum of *twenty-five pounds* to be laid out on the Road near Road near Carlisle's. Robert Carlisle's, where most wanted.

The sum of *ten pounds* to assist in opening the Road from Lo-From Lovitt's Lime Kiln to the Musquash Road. vett's Lime Kiln opposite the Indian House to the Road to Musquash.

The sum of *twenty pounds* to assist the Inhabitants of Sussex-Hallet's Creek Bridge. Vale in repairing the Bridge near Hallet's lately carried away.

All which several sums shall be paid by Warrant of His Honor the President or Commander in Chief, by and with the advice of His MAJESTY'S Council, out of the monies now in the Treasury, or as payment may be made at the same.

II. *And be it further enacted*, That all the said several and respective sums of money, and every part thereof, shall be paid to the several and respective persons who shall actually work and labour in making, completing, and repairing the said several Roads and Bridges, or in furnishing materials therefor, at the most reasonable rates that such labour and materials can be procured; and that the several and respective persons who shall be

Monies to be paid to the persons who shall actually work on the Roads and Bridges.

Persons entrusted  
with the expenditure  
of public monies to  
be accountable for  
the same.

be entrusted with the expenditure of the said several and respective sums, shall keep an exact account of the expenditure thereof, and shall produce receipts in writing from the several and respective persons to whom any part of the said money shall be paid as vouchers for such payments; and shall render an account thereof upon oath (which oath any Justice of the Peace in the several and respective Counties is hereby authorised to administer) to be transmitted to the Office of the Secretary of the Province for the inspection and examination of the General Assembly at their next Session; and such Commissioners or persons entrusted with the expenditure of the said several and respective sums of money, shall stand charged and chargeable with all sums of money entrusted to them, and not accounted for as aforesaid, and shall repay the same into the Province Treasury.

Persons entrusted  
with the expenditure  
of the monies to ren-  
der an account for  
their time and trou-  
ble to the General  
Assembly.

III. *And be it further enacted*, That the said Commissioners or persons entrusted with the expenditure of the said several and respective sums of money, shall for their time and trouble respecting the same (in case they shall find it necessary and expedient) render an account thereof at the next Session of the General Assembly, to be then provided for; in case the same shall appear just and equitable. *Provided always*, That such of the said persons who shall actually work and labour upon the said Roads and Bridges as aforesaid, shall retain out of the said sums so entrusted to them respectively, a reasonable compensation for such actual work and labour.

May retain a reason-  
able compensation  
for labour actually  
done.

