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PERPETUAL ACTS

OF THE

GENERAL ASSEMBLIES

OF

HIS MAJESTY'S PROVINCE OF

NOVA SCOTIA.



HALIFAX, in Nova Scotia :

Printed by **ROBERT FLETCHER.**

M.DCC.LXVII.

HALIFAX; the 13th Day of *May*, 1767.

THIS Edition of the Laws of the Province, as prepared and collated with the Records by *John Duport* Esq; with the Revival and Marginal References to Acts of Parliament and Authorities in Law, by Mr. Chief Justice BELCHER, was begun by Order of the *General Assembly*, on the Special Recommendation of the Honorable Lieutenant Governor FRANCKLIN, and continued and perfected with the Approbation, and by Order of His Excellency the Governor, the Right Honorable Lord WILLIAM CAMPBELL.

RICHARD BULKELEY,

Secretary of the Province.

VAULT

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1767

TO HIS EXCELLENCY

THE RIGHT HONORABLE

Lord WILLIAM CAMPBELL,
*Captain General and Governor in Chief in
and over His Majesty's Province of NOVA
SCOTIA, and the Territories thereon depen-
ding,*

THIS EDITION of the LAWS of the Province of
NOVA SCOTIA, perfected by your Lordship's Patro-
nage, is most humbly inscribed, with all due Re-
spect, by

Your Lordship's

Most Devoted, and

Most obedient Servant,

JONATHAN BELCHER.

THE UNITED STATES OF AMERICA

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D. C.

IN RE: [Illegible]

[Illegible]

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Very truly yours,

[Illegible Signature]

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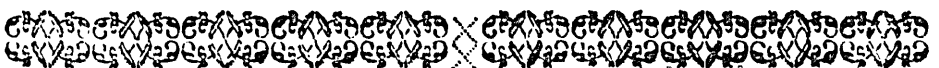
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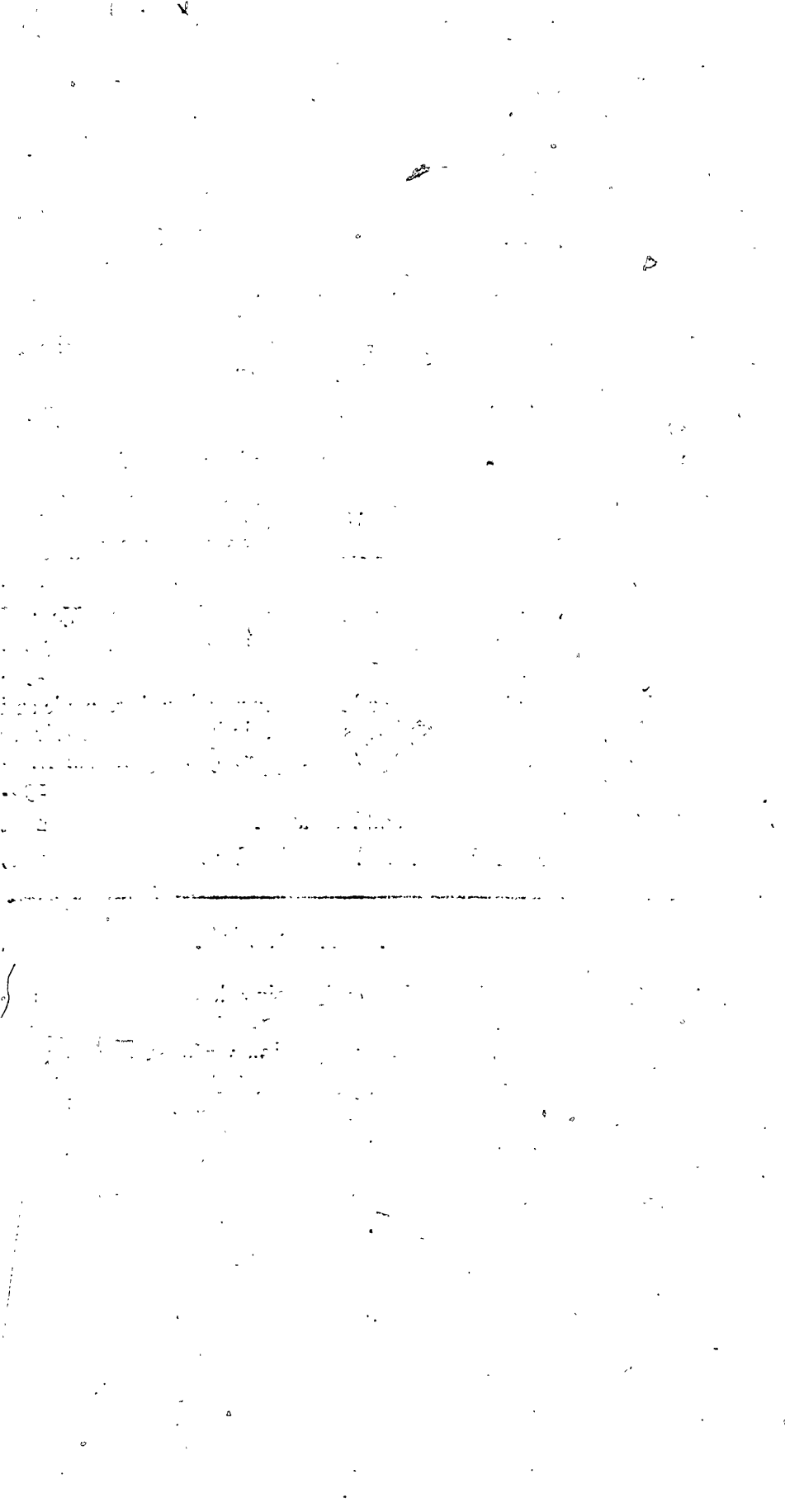
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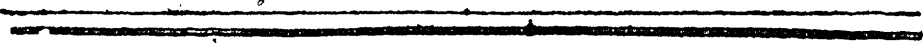
Eng. and Brit. STATUTES. *NOVA SCOTIA* ACTS.

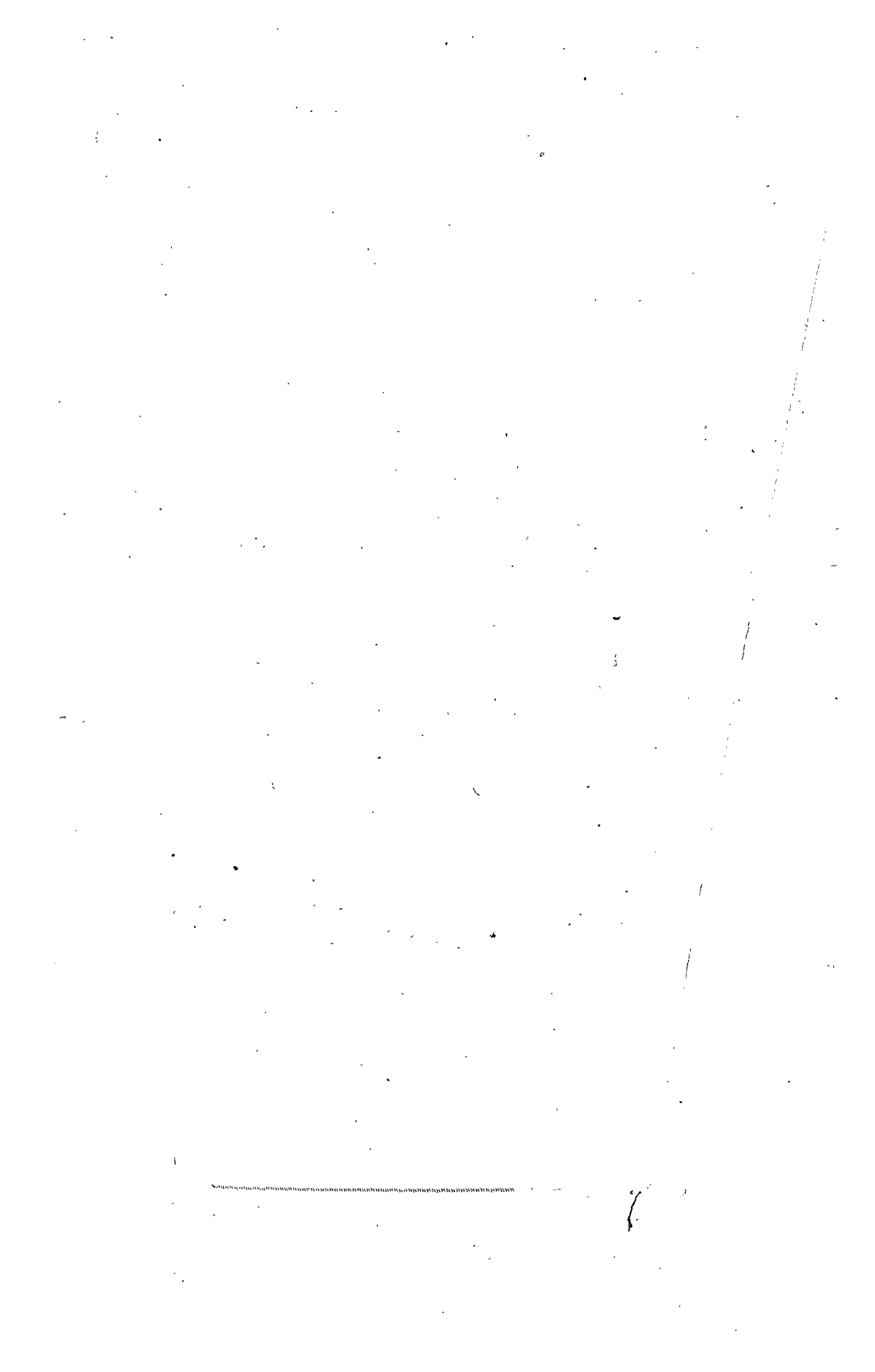
<p>STAT. Westm. 2. 13. Ed. 1. c. 34.</p> <p>25. Ed. 3. Stat. 5. c. 2.</p> <p>5. Hen. 4. c. 5.</p> <p>2. Hen. 5. c. 3.</p> <p>8. Hen. 6. c. 9.</p> <p>12. Sect. 1, 2.</p> <p>4. Hen. 7. c. 13.</p> <p>21. Hen. 8. c. 5. Sect. 3.</p> <p>7.</p> <p>11.</p> <p>23. Hen. 8. c. 1.</p> <p>13.</p> <p>25. Hen. 8. c. 3.</p> <p>25. Hen. 8. c. 6.</p> <p>32. Hen. 8. c. 30. Sect. 1, 2.</p> <p>33. Hen. 8. c. 1.</p> <p>34. & 35. Hen. 8. c. 5. Sect. 4, 14.</p> <p>35. Hen. 8. c. 6.</p> <p>1. Ed. 6. c. 7. Sect. 6.</p> <p>12. Sect. 10.</p> <p>5. Ed. 6. c. 9.</p> <p>1. Mar. c. 1.</p> <p>5. Eliz. c. 9.</p> <p>14.</p> <p>8. Eliz. c. 4.</p> <p>18. Eliz. c. 3.</p> <p>13. Eliz. c. 7. Sect. 1.</p> <p>2, 3.</p> <p>4.</p> <p>5.</p> <p>18. Eliz. c. 14. Sect. 1.</p> <p>14.</p> <p>2.</p> <p>27. Eliz. c. 2.</p> <p>Sect. 1.</p> <p>31. Eliz. c. 11.</p> <p>43. Eliz. c. 3.</p>	<p>32. Geo. 2. c. 13. Sect. 7.</p> <p>I.</p> <p>I.</p> <p>33. Geo. 2. c. 5. Sect. 1.</p> <p>33. Geo. 2. 2 Sefs. c. 9. Sect. 1.</p> <p>32. Geo. 2. c. 3. Sect. 1, 2.</p> <p>4. Geo. 3. c. 1. Sect. 1.</p> <p>32. Geo. 2. c. 13. Sect. 27.</p> <p>32. Geo. 2. c. 11. Sect. 7.</p> <p>32. Geo. 2. c. 13. Sect. 18.</p> <p>23.</p> <p>32. Geo. 2. c. 13. Sect. 9.</p> <p>33. Geo. 2. 2. Sefs. c. 9. Sect. 1.</p> <p>32. Geo. 2. c. 13. Sect. 20.</p> <p>32. Geo. 2. c. 13. Sect. 7.</p> <p>4. Geo. 3. 2. Sefs. c. 1. Sect. 1.</p> <p>32. Geo. 2. c. 20. Sect. 14.</p> <p>32. Geo. 2. c. 11. Sect. 1.</p> <p>33. Geo. 2. 2. Sefs. c. 9. Sect. 3.</p> <p>4. Geo. 3. c. 2. Sect. 5.</p> <p>32. Geo. 2. c. 13. Sect. 2.</p> <p>9.</p> <p>32. Geo. 2. c. 13. Sect. 1.</p> <p>32. Geo. 2. c. 20. Sect. 9, 11.</p> <p>8.</p> <p>32. Geo. 2. c. 13. Sect. 12.</p> <p>32. Geo. 2. c. 19. Sect. 1.</p> <p>32. Geo. 2. c. 13. Sect. 9.</p> <p>32. Geo. 2. c. 13. Sect. 28.</p> <p>8.</p> <p>34.</p> <p>4. Geo. 3. 2. Sefs. c. 1. Sect. 1.</p> <p>4. Geo. 3. c. 1. Sect. 1.</p> <p>4. Geo. 3. 2. Sefs. c. 1. Sect. 2.</p> <p>32. Geo. 2. c. 5. Sect. 4.</p> <p>4. Geo. 3. 2 Sefs. c. 1. Sect. 5.</p> <p>32. Geo. 2. c. 3. Sect. 3.</p> <p>5. Geo. 3. c. 6. Sect. 1.</p>
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- - - II.	-	32. Geo. 2. c. 17. Sect. 4.
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7. Jac. 1. c. 4. Sect. 7, 13, 14.	-	32. Geo. 2. c. 19. Sect. 1.
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- - - 13. Sect. 2.	-	4. Geo. 3. 2. Sefs. c. 1. Sect. 3.
- - - - 3.	-	- - - - 8.
- - - 16.	-	32. Geo. 2. c. 24. Sect. 1.
- - - 27.	-	32. Geo. 2. c. 13. Sect. 5.
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3 & 4. Ann. c. 9.	-	34. Geo. 2. c. 2. Sect. 2.

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7. Ann. c. 21.	- - -	- - - 1.
9. Ann. c. 14. Sect. 1, 2.	- - -	33. Geo. 2. 2. Sefs. c. 5. Sect. 1, 2.
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6. Geo. 2. c. 31.	- - -	32. Geo. 2. c. 19. Sect. 1.
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 - - - 7. — { 4 & 5. Ann. c. 16. Sect. 14.
 - - - 12. — 29. Car. 2. c. 3. Sect. 22, 23, 24.
 - - - — 21. Hen. 8. c. 5. Sect. 3.
 - - - — 22 & 23. Car. 2. c. 10. Sect. 2, 4.

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 - - - 2. — { 7. Ann. c. 21, 7. Wil. 3. c. 3.
 - - - 3. — { 1. Ed. 6. c. 12. Sect. 10.
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 - - - 6. — { 22 & 23. Car. 2. c. 1.
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 - - - 8. — 21. Jac. 1. c. 27.
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 - - - 10. — Stat. Westm. 2. 13. Ed. 1. c. 34.
 - - - 11. — 18. Eliz. c. 7. Sect. 4.
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 - - - 28. — 4. Geo. 1. c. 14. Sect. 1.
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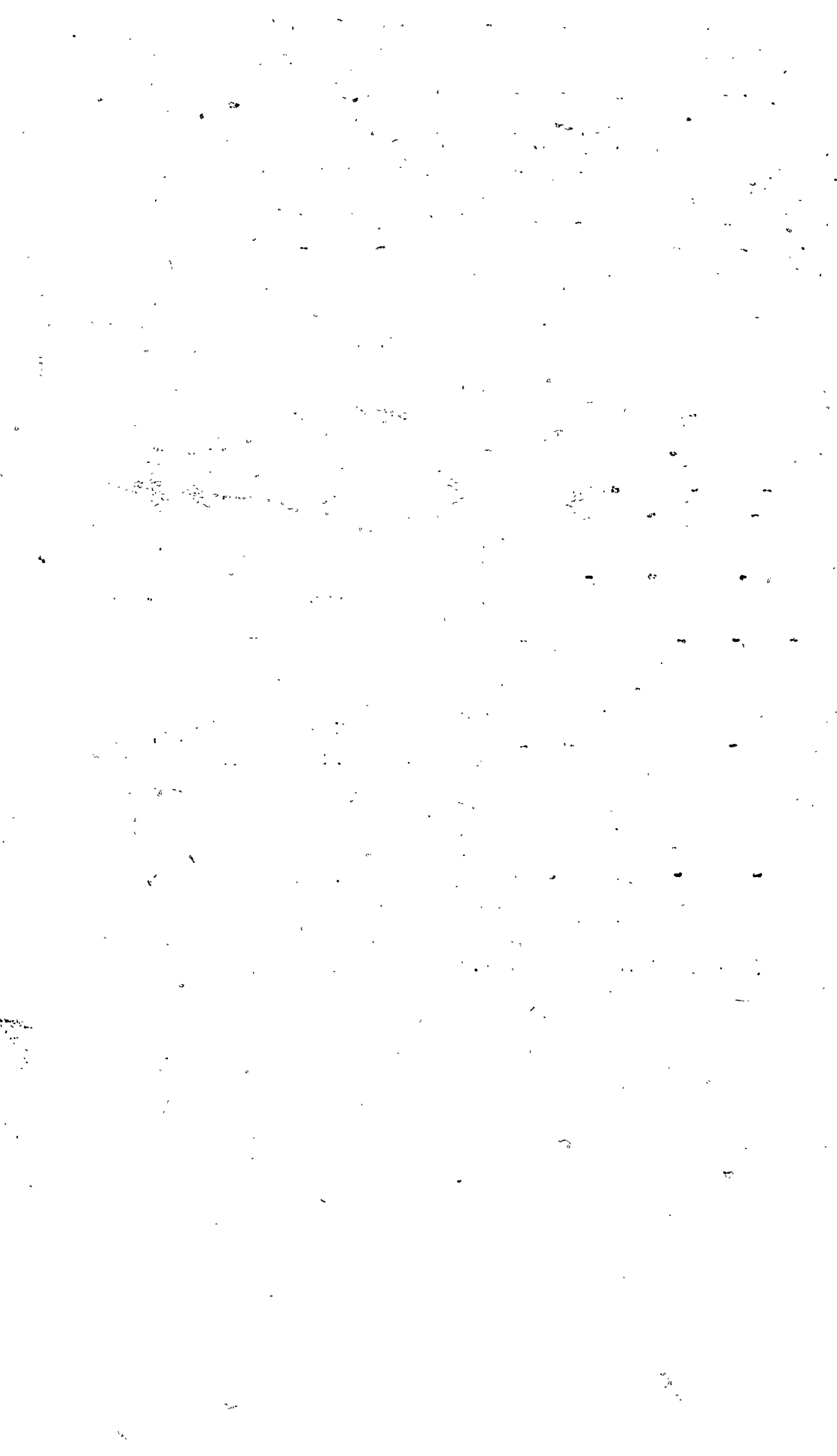
5. Geo. 3. c. 6. Sect. 1.	-	43. Eliz. c. 3.
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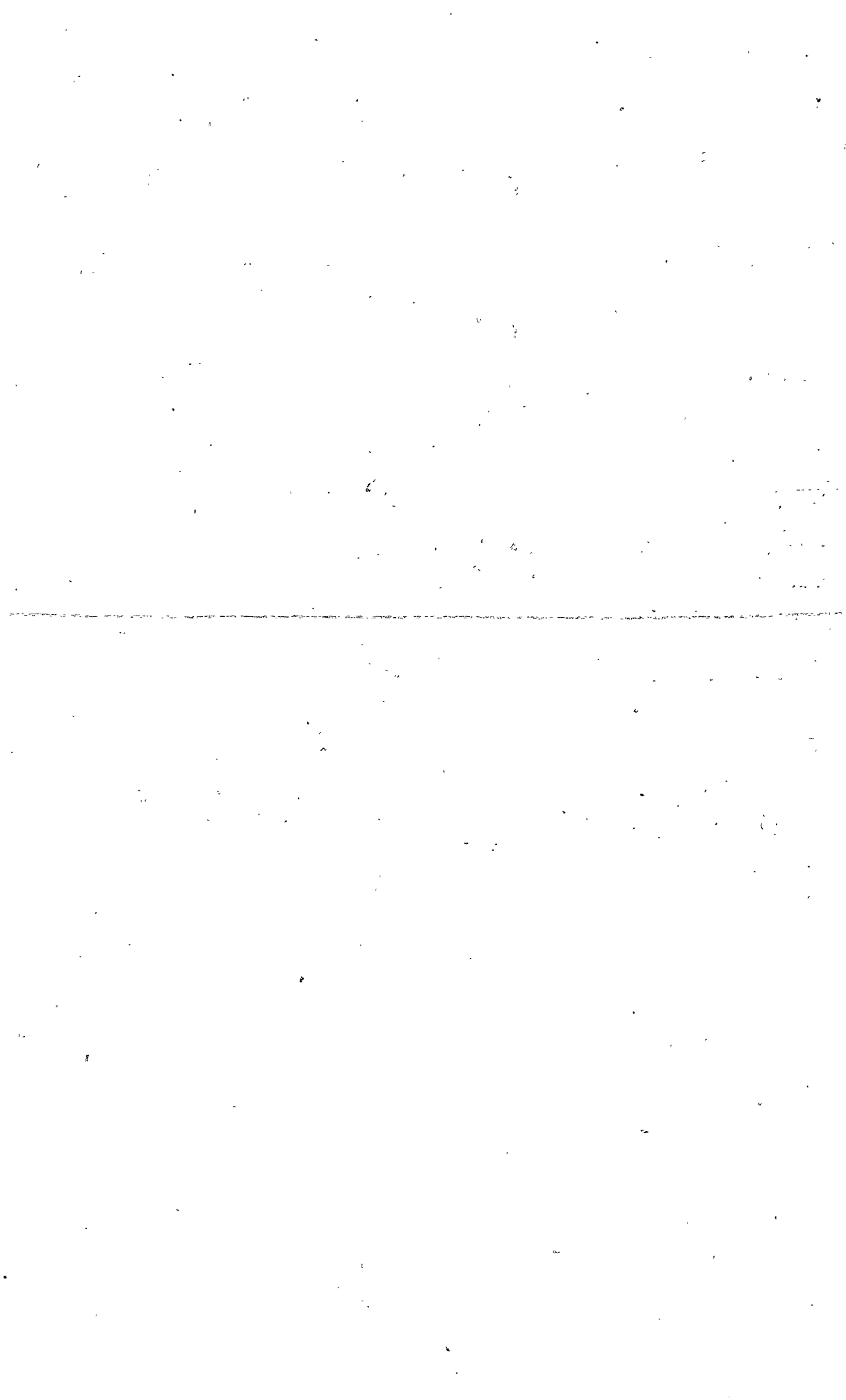
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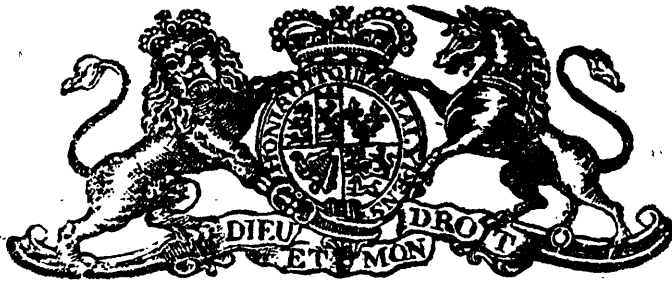
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E R R A T A.

PA. 27. In the running Title for 758; read 1758. Same Page in l. 14.
 for *Mafesty's* read *Majesty's*. Pa 28. l. 24. for *ano* read *and*. Pa. 33. in
 Marginal Note to Sect. 21. for *Brit. Stat. 9. Geo. 1. c.* read *Brit. Stat. 9.*
Geo. 1. c. 22. Sect. 1. Pa. 38. in the Note at the Bottom for 33. *Geo. 2.*
c. 12. read 33. *Geo. 2. c. 14.* Pa. 41. In the running Title for *Cap. XVII.*
 read *Cap. XV.* Pa. 61. in the Marginal Note to Sect. 3. for 2. *Salk 40.*
Eng. Stat. 24. & 5 Ann. read 2. *Salk 420. Eng. Stat. 4. & 5. Ann.* Pa. 81.
 l. 11. for *ao* read *do.* Pa. 82. insert in the Margin against the Title, 32.
Geo. 2. c. 5. Pa. 87. insert in the Margin against the Title, 33. *Geo. 2. c. 5.*
 Pa. 92. insert in the Margin against the Title, 32. *Geo. 2. c. 14.* Pa. 94.
 in the Title of the Act, for *Habourers* read *Harbourers*. Pa. 97. in-
 sert in the Margin against the Title, 32. *Geo. 2. c. 11.* Pa. 104. l. 10.
 for *Confessin* read *Confession*. Same Page insert in the Margin against the
 Title of Cap. 10. 33. *Geo. 2. c. 10.* Pa. 109. in the Marginal Note to Sect.
 6. for *Fines ob to the Use of the Poor,* read *Fines to be to the Use of the Poor.*
 Pa. 145. in the Marginal Note to Cap. 2. for *Councili* read *Council*. Pa. 202.
 in the Margin dele & 3. *Geo. 2. c. 42. Sect. 3.*





At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Second Day of October*, Anno Domini 1758, and in the *Thirty Second Year* of the Reign of Our Sovereign Lord GEORGE the Second, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. being the First GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for confirming the Proceedings on the several Resolutions or Acts of the Governors and Council of this Province, relating to the Duties of Impost on Rum and other distilled Liquors, and enabling the late Collector or Receiver to recover the Monies unpaid for any Bonds or Notes remaining in his Hands; and for establishing and regulating several Duties of Impost on Wines, Beer, Rum, and other distilled Spirituous Liquors for the future.

HERE AS it has been thought necessary by His Majesty's Governors and Council of this Province, before the calling a General Assembly, to lay a Duty of Three Pence a Gallon upon all Rum and other distilled Spirituous Liquors imported into this Province, excepting the Product and Manufacture of Great Britain, or of His Majesty's West India Plantations, imported directly from thence; which Impost Duty enabled them to grant Bounties and Premiums from time to time, for clearing and fencing of Lands, catching and curing Codfish, and other necessary Encouragements to Labour and Industry: And

Preamble.

A

Whereas

Whereas it is thought expedient, for the further Encouragement of Labour and Industry within this Province, to grant Bounties and Premiums on the Clearing and Fencing of Lands, raising Hemp, Flax, Grain, Roots, &c. and catching and curing Codfish: And as large Sums of Money will necessarily be wanting for Payment of the above mentioned Bounties and Premiums; We do hereby Grant unto His Most Excellent Majesty, His Heirs and Successors, for the Uses aforesaid, the several Rates, Duties and Imposts herein after mentioned; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted and Declared, That all the Proceedings heretofore by Virtue of said Resolutions or Acts, or any Part thereof, shall be and are hereby ratified and confirmed.

Former Proceedings confirmed.

Monies due on Bonds unsatisfied, to be recovered in any Court of Record.

II. And be it Enacted by the Authority aforesaid, That the respective Bonds perfected by Virtue of the said Acts or Resolutions, shall be and are hereby declared to be good and valid, and the Monies due thereon shall be recoverable in any of His Majesty's Courts of Record, pursuant to the Tenor of the said Bonds.

As these Clauses of Confirmation must, in their Nature, have a perpetual Effect, they are therefore herein inserted: The Remainder of the Act was Temporary.

C A P. II.

An Act for confirming Titles to Lands and Quieting Possessions.

Persons claiming Titles to Lands, &c. by Virtue of Grants, Deeds, or last Wills, to hold the same according to the Tenor thereof.

*** B ***
 Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted; That all Persons claiming or deriving any Right or Title to any Lands or Tenements, by Virtue of any Grants or Deeds entered in the Public Registry of this Province, or by Virtue of any Last Will or Testament, shall have, hold, and enjoy such Lands and Tenements, according to the Tenor and Effect of such Grants or Deeds registred, and of such Last Will and Testament, whether the Estate be in his or their own Right, or in Right of, or in Trust for another; and that all Possessions by Virtue thereof shall be, and are hereby confirmed, any want of legal Form in such Grants, Deeds, or Wills, notwithstanding.

Possessions by Virtue of such Grants, &c. confirmed, notwithstanding any Want of legal Form therein.

No Papist to hold any Lands, &c. other than by Grants from the Crown.

II. Provided, That no Papist hereafter shall have any Right or Title to hold, possess, or enjoy, any Lands or Tenements, other than by Virtue of any Grant or Grants from the Crown, but that all Deeds or Wills, hereafter made, conveying Lands or Tenements to any Papist, or in Trust for any Papist, shall be utterly null and void: And such Lands or Tenements shall not revert to the Persons granting the same to any Papist, or in Trust for any Papist, but such Lands or Tenements shall, upon Conviction of such Papist, be vested in His Majesty, His Heirs and Successors for ever.

III. And

III. *And it is hereby Enacted*, That before the Registry of any *Grant or Deed* of any *Lands or Tenements*, other than by Virtue of any *Grant or Grants* from the Crown, the Person or Persons to whom, or for whose Use such *Grants or Deeds* are made, shall take the *Oaths* appointed to be taken instead of the *Oaths of Supremacy and Allegiance*, and make and subscribe the Declaration; before the Register of the Province or his Deputy, who are hereby impowered to administer the same: And if any Person shall refuse to take the said *Oaths*, and subscribe the said Declaration, the *Grants or Deeds* made to such Persons shall be null and void to all Intents and Purposes whatsoever.

Persons to whom Grants or Deeds of Lands, &c. are made, to take the Oaths before such Grants, &c. are required.

IV. *And it is hereby further Enacted*, That all *Deeds of Sale* of any *Lands or Tenements*, made by the Provoost Marshal under Writs of Execution to him issued, for the Satisfaction of any Judgments, shall be and are hereby confirmed:

Provoost Marshal's Deeds under Writs of Execution confirmed.

V. *Provided nevertheless*, That it shall and may be lawful for any Person or Persons, whose Lands have been taken in Execution, and sold as aforesaid, his, her or their Heirs, within Twelve Months from the Second Day of *October*, 1758, to sue for and recover, by Action in Nature of an Action of Account, from the Person or Persons to whom the Persons intitled to such *Lands or Tenements* were indebted, and for Satisfaction of whose Debts the said *Lands or Tenements* have been sold as aforesaid, upon Payment in Manner herein after directed, of the Principal Money due, with Interest for the same, at the Rate of *Six Pounds* in the Hundred for each Year, and all Costs and Damages awarded or sustained by the said Judgments, and also for all Improvements of the said *Lands or Tenements*, and the Provoost Marshal's Proceedings thereon, with like Interest for the Principal Money expended in such Improvements, upon a just Account to be taken of the same on any Trial for the Recovery of said *Lands or Tenements*, wherein a View, if required, shall be directed: And if upon such Trial it shall appear in Evidence, that such Person or Persons to whom the Lands have been sold or conveyed as aforesaid, have committed wilful Waste thereon, or have received Rents or Profits from the said *Lands or Tenements*, the said Rents and Profits, and the Value of such Waste, shall be allowed in Account to the Person so suing for the Recovery of the said *Lands or Tenements*, and upon Payment of said Principal Money and Interest, and of all Damages and Costs for and on Account of such Debts and Improvements, or upon taking such Account of Rents and Profits, or the Value of such Waste, and Payment of the Balance due thereon, before any Writ of Execution shall issue upon any Judgment upon such Trial, to the Clerk of the Court where such Trial shall be had; that then and in such Case it shall and may be lawful to award such Writ of Execution for delivering Possession of such *Lands or Tenements*, to the Persons so suing for the same: *Provided*, That if upon such Trial it shall appear that the Rents and Profits received, or the Value of such Waste committed, or both of them, do exceed the Value

Lands sold under Writs of Execution may be redeemed within Twelve Months from the 2d October, 1758.

Purchasers of such Lands to be accountable for wilful Waste, Rents or Profits.

Value

Value of the Debt, Interest, Costs, and Damages, and the Value of the Improvements, that Execution shall issue for recovering the said Sum so received in Rents and Profits, or the Value of such Waste committed, beyond the Value of such Debt, Interest, Costs, and Damages, together with the Possession of the *Lands and Tenements* so taken in Execution as aforesaid.

Debtors may recover their Lands on Payment, within Twelve Months from 2d Oct. 1758, of the Consideration Money paid by the last Purchaser, with all Charges.

VI. *Provided nevertheless*, That any Debtor or Debtors, or his or her Heirs, upon Payment or Tender of Payment, within Twelve Months after said Second Day of *October*, 1758, of the Consideration Money really and *bonâ fide* paid by the last Purchaser or Purchasers under the Provost Marshal's Deeds, of any *Lands* or *Houses*, with all Charges for necessary Repairs or Alterations, shall and may be intitled to recover such *Lands* and *Houses*, so taken in Execution and sold by the Provost Marshal as aforesaid.

Debtors may prosecute an Action of Account against their Creditors.

VII. *Provided also*, That it shall and may be lawful nevertheless, to and for any Debtor or Debtors, or his or her Heirs, to have and prosecute an Action of Account, against his or her Creditor or Creditors *notwithstanding*.

Deeds, &c. made by Purchasers under Provost Marshal's Deeds, within one Year from 2d Oct. 1758, for a larger Sum, to be void.

VIII. *Provided also*, That all subsequent Deeds and Conveyances, made and executed by any subsequent Purchaser or Purchasers under the Provost Marshal's Deeds, since the said Second Day of *October*, 1758, within the Space of one Year only, for any greater Sum than is expressed in such Purchaser or Purchasers Deed of Assignment, shall and are hereby declared to be null and void to all Intents and Purposes whatsoever.

No Lands to be sold hereafter by the Provost Marshal on Execution.

IX. *Provided also*, That no Sale shall hereafter be made of any *Lands* or *Tenements*, by the Provost Marshal, by Virtue of any Writ of Execution †.

Not to bar the Title of any Feme Covert, &c. *Vide Note at the End of this Act.*

X. *Provided also*, That neither this Act, nor any Thing herein contained, shall extend, or be construed to extend, to bar the Title of any *Feme Covert*, or Person *Non Compos Mentis*, *imprisoned*, or in *Captivity*; who shall be intitled to sue for and recover any such *Lands* or *Tenements* to which they are intitled, within one Year after such Impediment shall be removed.

Resolution of the Governor and Council for Registry of Lands and all former Registry of Lands confirmed.

XI. *And be it further Enacted by the Authority aforesaid*, That a Resolution or Act of the Governor and Council, dated the Third of *February*, 1752, concerning the Registry of Lands in this Province, and that all Registers and all Proceedings thereon shall be, and the same are hereby ratified and confirmed.

Deeds to be registered at full length.

XII. *Provided*, That the Register of Deeds and Conveyances in this Province shall, for the future, in lieu of any Memorial, Register all Deeds and Conveyances in Words at full Length; for which he shall demand and receive such Fees for registering as in like

like Manner hath heretofore been allowed: And that upon Proof of one credible subscribing Witness, to the due Execution of such Deed or Conveyance, the same shall accordingly be registred, without any other Ceremony, or Form heretofore used; any former Use or Custom to the contrary in any wise notwithstanding.

XIII. And be it further Enacted by the Authority aforesaid, That if any Original Deed shall be lost, and Proof thereof in Court being made, that then the Registry or Record of such Deed or Deeds shall be allowed to be good Evidence in any Court of Law or Equity, within this Province.

If Deeds are lost, the Copy from the Registry shall be allowed as Evidence.

Vide Additions to this Act, 34 G. II. c. iv. & v. G. III. c. viii.

The Saving in this Act, Sect. 10. is, by 1 GEO. III. c. iii. extended to Absentees, and to Five Years instead of One, after Impediments removed.

The Resolution or Act referred to and confirmed in the foregoing Act, is as follows.

I N Council the 3^d February, 1752, Resolved, That a Memorial of all Deeds, Conveyances, and Mortgages, which from and after the First Day of March next ensuing, shall be made and executed, of, or concerning, or whereby any Honours, Manors, Lands, Tenements, or Hereditaments, in the Province of Nova-Scotia, may be any ways affected in Law or Equity, shall be registred in such Manner as is herein after directed, and that every such Deed and Conveyance that shall, at any Time, after the said First Day of March, in the Year of our Lord One Thousand Seven Hundred and Fifty two, be made and executed, shall be adjudged fraudulent and void, against any subsequent Purchaser for valuable Consideration, unless such Memorial thereof shall have been registred as by this Act is directed, before the registering the Memorial of the Deed or Conveyance, under which such subsequent Purchaser or Mortgagee shall claim.

After 1st March, 1752, a Memorial of all Deeds, &c. affecting Lands, to be registred, as herein after directed,

or such Deeds, &c. shall be adjudged fraudulent.

II. That a Memorial of all Deeds, Conveyances and Mortgages, which shall have, before the First Day of March aforesaid, in the Year of our Lord One Thousand Seven Hundred and Fifty two, been at any Time, made and executed, of, or concerning, or whereby any Honours, Manors, Lands, Tenements, or Hereditaments, within the Province of Nova-Scotia, may be any ways affected in Law or Equity, shall be registred in such Manner as is herein after directed, and all such Deeds, Conveyances, and Mortgages, which shall be omitted to be so registred, shall be null and void against any subsequent Purchaser for valuable Consideration.

A Memorial of Deeds, &c. made before the 1st March 1752, shall be registred as herein after directed,

or such Deeds, &c. shall be null and void.

III. That all such Deeds, Conveyances and Mortgages, which shall have been made and executed before the said First Day of March, in the Year of our Lord One Thousand Seven hundred and Fifty two, (and which have not been already registred in the Publick Registry of the Province) of, concerning, or which do any ways affect any Honours, Manors, Lands, Tenements, or Hereditaments within the

Deeds, &c. of Lands, &c. in the County of Halifax, made before the 1st March, 1752, (and not registred before) to be registred as herein after directed,

on or before the
30th April, 1752.

in any other Part of
the Province,

on or before the
30th Sept. 1752.

A further reason-
able Time to be
allowed by the
Governor and
Council to Persons
out of the Province.

Memorials of
Deeds, &c. to be
registred in the
Office of the Pub-
lic Register at
Halifax.

Memorials to be
registred, to be put
in Writing under
the Hand and Seal
of the Grantor, &c.

Certificate to be
indorsed by the Re-
gister on all Memo-
rials, and signed by
him.

Proviso in case of
Death of the Wit-
nesses.

County of *Halifax*, within the said Province, shall be registred in Manner as is herein after mentioned, on or before the *Thirtieth Day of April next*: And that all such *Deeds, Conveyances and Mortgages*, of, concerning, or which do any ways affect, any *Honours, Manors, Lands, Tenements, or Hereditaments*, within any other Part of the said Province of *Nova-Scotia*, shall be registred in Manner as herein after expressed, on or before the *Thirtieth Day of September next* ensuing.

IV. *Provided always*, That in case any Person or Persons, possessed of any such *Deed, Conveyance, or Mortgage*, made and executed before the aforesaid *First Day of March next*, shall not be within the said Province, before the Expiration of the respective Terms before mentioned, such further reasonable Time shall be allowed for the Registring thereof, as the Governor and Council of the said Province shall think fit.

V. *That* the Memorials of the *Deeds, Conveyances, and Mortgages*, before mentioned, shall be registred in the Office of the *Public Register* of the Province at *Halifax*.

VI. *That* all Memorials so to be entered and registred, shall be put into Writing, and brought to the said Office, under the Hand and Seal of some or *One* of the *Grantors* or some or *One* of the *Grantees*, his or their *Heirs, Executors or Administrators, Guardians, or Trustees*, attested by *Two* Witnesses, *One* whereof to be *One* of the Witnesses to the Execution of such *Deed, Conveyance, or Mortgage*, which Witness shall, upon Oath, before the Register for the said Province for the Time being, or his Deputy, prove the Signing and Sealing of such Memorial, and the Execution of the *Deed, Conveyance, or Mortgage*, mentioned in such Memorials, (which Oath the said Register for the Time being, or his Deputy, are hereby impowered to administer) and the said Register, or his Deputy, shall indorse a Certificate thereof, on every such Memorial, and sign the same.

VII. *Provided nevertheless*, That if it shall so happen that both or all the Witnesses to any *Deed, Conveyance or Mortgage*, by this Act required to be registred, shall be dead or gone out of the Province, before the Expiration of the Time hereby directed for the Registring such *Deeds, Conveyances, and Mortgages*, then the said Memorial to be registred, shall be executed by some or one of the *Grantors or Grantees* named in the Original *Deed, Conveyance or Mortgage*, his or their *Heirs, Executors or Administrators*, in the Presence of *Two* other credible Witnesses, *One* of which Witnesses to such Memorial shall, on his Oath, before the said Register or his Deputy, prove the signing such Memorial by some or one of such *Grantors or Grantees*, his or their *Heirs, Executors or Administrators*, (which Oath the said Register or his Deputy are hereby impowered to administer) and the said Register or his Deputy shall indorse a Certificate thereof, on such Memorial and sign the same.

VIII. *That*

VIII. That every Memorial of any Deed, Conveyance, or Mortgage, shall contain the Day of the Month, and the Year when such Deed, Conveyance, or Mortgage bears Date; the Names and Additions of all the Parties to such Deed, Conveyance, or Mortgage, and the Places of their Abode; and shall express or mention the Honours, Manors, Lands, Tenements, or Hereditaments, contained in such Deed, Conveyance, or Mortgage, and the Names of the *Parishes, Townships, Hamlets, Precincts, or extra-parochial Places*, within the said County, where any such Honours, Manors, Lands, Tenements or Hereditaments, are lying or being, that are given, granted or conveyed, or any way affected or charged by any such Deed, Conveyance, or Mortgage, in such Manner as the same are expressed or mentioned in said Deed, Conveyance, or Mortgage, or to the same Effect.

The Contents of Memorials to be registred.

IX. And every such Deed, Conveyance, or Mortgage, of which the Memorial is to be so registred, shall be produced to the said Register or his Deputy, at the Time of entering such Memorial, who shall indorse a Certificate on every such Deed, Conveyance, or Mortgage, and therein mention the certain Day, Hour and Time, on which such Memorial is so entered, which Certificate, so indorsed, shall also be signed by the said Register or his Deputy.

Original Deeds, &c. to be produced to the Register who shall indorse a Certificate thereon.

X. Which Certificates shall be taken and allowed as Evidence of such respective Registries in all Courts of Record in the said Province, and every Page of such Registry Books, and every Memorial that shall be entered therein, shall be numbered, and the Day of the Month, and the Year, and Hour or Time of the Day, when such Memorial is Registred, shall be entered in the Margins of the said Registry Books, and in the Margins of the said Memorials. And the Register or his Deputy shall keep an Alphabetical Calendar of all Parishes, extra-parochial Places and Townships, within the said County, with reference to the Number of every Memorial that concerns the *Honours, Manors, &c.* in every such Parish, extra-parochial Place, or Township respectively, and of the Names of the Parties mentioned in such Memorial. And the Register or his Deputy shall duly file every such Memorial in order of Time, as the same shall be brought to the said Office, and Enter or Register the said Memorials in the same Order as they respectively come to his Hands.

Certificates to be allowed as Evidence.

Method of Registering.

and Filing.

XI. That the Register for the Time being, or his Deputy, shall be allowed, for the Entry of every such Memorial, as is by this Act directed to be Registred, the Sum of *One Shilling*, and no more, in case the same do not exceed *Two Hundred Words*; and if more, then after the Rate of *Sixpence an Hundred* for all the Words contained in such Memorial, over and above the *first Two Hundred Words*: And the like Fees for the like Number of Words contained in every Certificate or Copy given out of the said Office, and no more; and for every Search in the said Office, *One Shilling* and no more.

Register's Fees.

XII. That

enalty on Forgery,

XII. *That* if any Person or Persons shall, at any Time, forge or counterfeit any Entry of the Acknowledgment of any such Memorial, Certificate or Indorsement, as is herein mentioned or directed to be made, and be thereof lawfully convicted, such Person or Persons shall incur and be liable to such Pains and Penalties, as in and by an Act of Parliament made in the *Fifth Year of Queen Elizabeth*, (intituled *An Act against Forgers of False Deeds and Writings*) are imposed upon Persons for forging and publishing of all false Deeds, Charters or Writings sealed, Court Rolls, or Wills, whereby the Freehold or Inheritance of any Person or Persons of, in, or unto any Lands, Tenements or Hereditaments, shall or may be molested, troubled or charged: And that if any Person or Persons shall, at any Time, forswear him or themselves, before the said Register for the Time being, or his Deputy, in any of the Cases herein mentioned, and be thereof lawfully convicted, such Person and Persons shall incur, and be liable to the same Penalties, as if the same Oath had been made in any Court of Record within this Province.

and Perjury.

an case of Mortgages being satisfied, and a Certificate thereof produced and proved upon Oath, before the Register,

XIII. *That* in Case of Mortgages whereof Memorials shall be entered in the Register's Office as before mentioned pursuant to this Act, if at any Time afterwards, a Certificate shall be brought to the said Register or his Deputy, signed by the Mortgagee or Mortgagees, his, her, or their Executors, Administrators or Assigns, and attested by *Two* Witnesses, whereby it shall appear that all Monies, due upon such Mortgage, have been paid or satisfied in Discharge thereof, which Witnesses shall, upon their Oaths before the said Register or his Deputy, (who are hereby respectively empowered to administer such Oath) prove such Monies to be satisfied or paid accordingly, and that they saw such Certificate signed by the said Mortgagee or Mortgagees, his, her, or their Heirs, Executors, Administrators, or Assigns, that then and in such Case, the said Register or his Deputy shall make an Entry in the Margin of the said Registry Books, against the Registry of the Memorials of such Mortgage, that such Mortgage is satisfied and discharged, according to such Certificate to which the same Entry shall refer, and shall afterwards file such Certificate, to remain upon Record in the said Office.

An Entry to be made thereof, in the Margin of the Registry Books against the Registry of the Memorial of such Mortgage.

Public Act

XIV. *That* this Act shall be taken and allowed in all Courts within this Province, as a publick Act, and all Judges, Justices, and other Persons therein concerned, are hereby required to take such Notice thereof, without special Pleading of the same.

C A P. III.

An ACT directing the Proceedings against forcible Entry or Detainer.

B *Be it Enacted by His Excellency the Governor, Council, and*
 B *Assembly, and by the Authority of the same it is hereby Enacted,*
 B That upon Complaint on Oath, made to any Justice of the
 Peace of this Province, of any wrongful and forcible Entry
 made into any Houses, Lands, Tenements, or other Possessions,
 lying within any Town or Place in this Province, where
 such Justice resides, or of any wrongful Detainer, or with holding
 with Force after Possession demanded, of any Houses, Lands,
 Tenements, or other Possessions, every such Justice shall, by War-
 rant under his Hand and Seal, directed to the Constables of such
 Town, cause such Offender or Offenders to be arrested and detained
 in Custody, until he, she, or they, find sufficient Securities for his,
 her, or their personal Appearance, at the next *General Sessions of*
the Peace, there to answer such Complaint, and for Want of such
 Security, to be committed to Prison.

Eng. Stat. 8. H. 6. c. 9.
Cartbrev 496.
 Persons making any
 forcible Entry into
 Houses, &c. to be
 arrested by Warrant
 from a Justice,

and bound to ap-
 pear at next Sessions
 of the Peace, to
 answer such Com-
 plaint.

II. *And be it further Enacted,* That the Justices of the said *Ge-
 neral Court of Sessions*, shall have full Power and Authority, by vir-
 tue of this Act to enquire by the Oath of the Party grieved, and
 other credible Proof, as well of him, her, or them as make such for-
 cible Entry into Houses, Lands, Tenements or other Possessions,
 as of him, her, or them, as detain and hold the same with Force
 as aforesaid: And if it shall be found by the Jury, then and there
 returned and sworn, that a forcible Entry is made into any Houses,
 Lands, Tenements or Possessions, or that the same are detained
 and held with Force as aforesaid, then the said Justices, by War-
 rant under the Hand of the Clerk of the said Court, directed to
 the Provost-Marshal or his Deputy, shall cause the same Houses,
 Lands, Tenements or other Possessions, within *Fourteen Days* after
 such Trial had, to be re seized, and thereof the Party to be again
 put into Possession, who in such Sort was put out or holden out,
 wherein no Appeal shall be allowed to such Offender or Offenders.
 And moreover the Party grieved shall and may by Action of Tres-
 pass, recover treble Damages and Costs of Suit against such Offen-
 der or Offenders, any Law, Usage or Custom to the contrary
notwithstanding.

Justices in Sessions
 to enquire of such
 forcible Entry,

and if proved to the
 Satisfaction of the
 Jury,

the Party to be
 again put into Pos-
 session of such
 Lands, &c.

and recover treble
 Damages and Costs.

III. *Provided always,* That this Act shall not extend or be con-
 strued to extend unto any Person or Persons, that have had the
 Occupation, or have been in quiet Possession of any Lands, Tene-
 ments

Eng. Stat. 31 El.
c. 11.
 Not to extend to
 Persons who have
 been possessed

of Lands, for the Space of three Years.

ments or Possessions, by the Space of *Three* whole Years together next before, and his, her, or their Estate or Estates therein not ended or determined.

Persons under Disabilities intitled to recover by 1 GEO. III. c. ii. within Five Years after Impediments removed.

Under the English Statutes it has been adjudged,
1st, What Acts amount to a forcible Entry or Detainer, vide 1st *Hawk. P. C.* 145 & 146; and *Dalton* 299; *Dyer* 122, 187.

2d, What do not amount to a forcible Entry or Detainer, vide *Brooke's db. Tit. Durefs* 12, 16; 1 *Inst.* 257; 2 *Inst.* 235; 1 *Salk.* 356; *Cro. Ja.* 18; 1 *Hawk. P. C.* 147; *Dalt.* 300, 315, 316.

3d, On what Possessions forcible Entry or Detainer may be committed, vide *Cro. Ja.* 41, *Cro. Cha.* 201, 486; 1 *Lev.* 99; 1 *Mod.* 73.

4th, The Manner of awarding Restitution, vide 1 *Hawk. P. C.* 152; *Co. Litt.* 323; *Dalt.* 314; 1 *Vent.* 308.


5th, What shall be Bars to Restitution and of superceding Execution of the same, vide 1 *Hawk. P. C.* 152-154; *Dalt.* 79, 81, 84.

C A P. IV.

An ACT to prohibit the Erecting of Distilling Houses, or setting up Stills within the Town of *Halifax*, or within one Quarter of a Mile of the present Lines or Pickets of the said Town.

No Distilling Houses or Stills to be erected within the Town of *Halifax*, or within a Quarter of a Mile of the Picketed Lines, on Penalty of £100.


Such Stills deemed Public Nufances.

 *E* it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Publication hereof, no Person or Persons whatsoever, shall erect any Distilling Houses, or set up any Stills for distilling of Cordial Waters, or any Spirituous Liquors, within the Town of *Halifax*, or within one Quarter of a Mile of the present Lines or Pickets of said Town; on Pain of forfeiting the Sum of *One Hundred Pounds*, for every Still so set up, and Distilling House so erected; to be recovered by Bill, Complaint, or Information, in any of His Majesty's Courts of Record within this Province; one fourth Part to the Informer or Profecutor, the Remainder to the Uses of the Government; and the said Stills shall be deemed and adjudged to be a public Nufance, and shall be accordingly removed.

C A P. V.

An ACT for the Establishment of *Religious Publick Worship* in this Province, and for suppressing of *Popery*.

Preamble.

 *ORASMUCH* as His Majesty upon the Settlement of the Province, was pleased, in His pious Concern for the Advancement of GOD'S Glory, and the more decent Celebration of the Divine Ordinances amongst us, to erect a Church for Religious Worship, according

ing to the Ufage of the Church of England; in humble Imitation of His Royal Example, and for the more effectual Attainment of His Majesty's pious Intentions, that we might in the Exercise of religious Duties, be seeking for the Divine Favour and Protection, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly; That the Sacred Rites and Ceremonies of Divine Worship, according to the Liturgy of the Church established by the Laws of England, shall be deemed the fixed Form of Worship amongst us, and the Place wherein such Liturgy shall be used, shall be respected and known by the Name of the Church of England as by Law established. And that for the Preservation of Purity and Unity of Doctrine and Discipline in the Church, and the right Administration of the Sacraments, no Minister shall be admitted to officiate as a Minister of the Church of England, but such as shall produce to the Governor, a Testimonial, that he hath been licenced by the Bishop of London, and shall publicly declare his Assent and Consent to the Book of Common Prayer, and shall subscribe to be conformable to the Orders and Constitutions of the Church of England, and the Laws there established; upon which the Governor is hereby requested to induct the said Minister into any Parish that shall make Presentation of him. And if any other Person pretending himself a Minister of the Church of England, shall, contrary to this Act, presume to teach or preach publicly or privately, the Governor and Council are hereby desired and impowered to suspend and silence the Person so offending.

Liturgy of the Church of England established.

No Minister to officiate without a Certificate from the Bishop of London.

Others to be silenced.

II. Provided nevertheless, and it is the true Intent and Meaning of this Act, That Protestants, dissenting from the Church of England, whether they be Calvinists, Lutherans, Quakers, or under what Denomination soever, shall have free Liberty of Conscience, and may erect and build Meeting Houses for Public Worship, and may choose and elect Ministers for the carrying on Divine Service and Administration of the Sacraments, according to their several Opinions; and all Contracts made between their Ministers and their Congregations for the Support of the Ministry, are hereby declared Valid, and shall have their full Force and Effect, according to the Tenor and Conditions thereof; and all such Dissenters shall be excused from any Rates or Taxes to be made and levied for the Support of the established Church of England.

Protestant Dissenters excepted,

and excused from Rates for the Support of the established Church of England.

III. And be it further Enacted, That every Popish Person, exercising any ecclesiastical Jurisdiction, and every Popish Priest or Person exercising the Function of a Popish Priest, shall depart out of this Province on or before the Twenty Fifth Day of March, 1759. And if any such Person or Persons shall be found in this Province after the said Day, he or they shall, upon Conviction, be adjudged to suffer perpetual Imprisonment: And if any Person or Persons so imprisoned, shall escape out of Prison, he or they shall be deemed and adjudged to be guilty of Felony without Benefit of Clergy.

Eng. Stat. 11. & 12. Wil. 111. c. iv. Sect. 3. Popish Priests to depart the Province before the 25 March 1759, on Pain of perpetual Imprisonment.

Escape to be deemed Felony.

IV. And be it further Enacted, That any Persons, who shall knowingly harbour, relieve, conceal, or entertain any such Clergyman of the Popish Religion, or Popish Priest, or Persons exercising the

Eng. Stat. 27 El. c. 12.

Persons harbouring
Popish Priests to
forfeit £50.

the Function of a *Popish Priest*, shall forfeit *Fifty Pounds*, one Moiety to His Majesty for the Support of His Government in this Province, and the other Moiety to the Informer, and shall be also adjudged to be set in the Pillory, and to find Sureties for his good Behaviour at the Discretion of the Court.

Offences to be de-
termined at the Su-
preme Court, or by
a Special Commis-
sion of Oyer and
Terminer.

V. *And be it Enacted*, That every Offence against this Act, shall and may be inquired of, heard and determined, at His Majesty's *Supream Court, Court of Assize, and General Gaol Delivery*, or by a special Commission of *Oyer and Terminer*.

Any Justice of the
Peace may commit
Popish Priests or
Persons harbouring
them, and bind the
Witnesses to appear.

VI. *And be it further Enacted*, That it shall and may be lawful for any Justice of the Peace, upon Information by Oath, or any reasonable Cause of Suspicion, to issue his Warrant for apprehending any such *Popish Ecclesiastical Person, Popish Priest, or Person* exercising the Function of a *Popish Priest*, or any Persons knowingly harbouring, relieving, concealing or entertaining, them or any of them, and to commit any such Person or Persons respectively, who shall so offend against this Act, to His Majesty's Gaol, for Trial as aforesaid, and to require Sureties for the Appearance of the Witness or Witnesses, against any Offender or Offenders, upon such Trial; and to make Return of his Proceedings to such Court on the Information of such Witnesses, and the Examination of any Offender or Offenders.


Not to extend to
such *Romish Eccle-
siastical* Persons as
are sent into the
Province as Priso-
ners of War, or dri-
ven in by Ship-
wreck &c.

VII. *Provided neverttheless*, That this Act shall not extend, or be construed to extend to any such *Romish Ecclesiastical* Persons, who shall be sent into the Province as Prisoners of War, or who shall by Shipwreck or any other Distress or Necessity, be driven into the Province, so as that such Prisoners of War do not escape before they can be sent out of the Province, or that such Persons arriving through Necessity as aforesaid, depart out of the Province as soon as there may be Opportunity; and that they also forthwith after their Arrival, attend the Governor or Commander in Chief of the Province for the Time being, if near the Place of his Residence, or otherwise a Justice of the Peace, and represent the Necessity of their Arrival, and obey such Directions as the said Governor, Commander in Chief, or Justice shall give them for their Departure; and so as that neither the said Prisoners of War, nor the said Persons arriving through such Necessity, shall exercise any *Ecclesiastical* Jurisdiction, or any Part of the Function of a *Popish Priest*, during his or their Abode in the Province, in which Case he or they shall be liable to the Penalties of this Act.

Vid. an Addition to this Act. 33 G. II. c. iii. 2. Sess.

C A P. VI.

An ACT for Establishing and Regulating a
MILITIA.

 *HEREAS* by His Majesty's Royal Instructions to his Excellency the Governor of this Province, he is directed to cause a Militia to be established as soon as possible: AND WHEREAS the Security and Preservation of this Province greatly depends upon the said Militia being put into Methods, and under such Rules as may make the same most useful for the Support and Defence thereof, and that the Inhabitants should be well armed and trained up in the Art Military, as well for the Honour and Service of His most Sacred Majesty, and the Security of this His Province, against any Violence or Invasion whatsoever, as for the Preservation of their own Lives and Fortunes, and that every Person may know his Duty herein, and be obliged to perform the same: Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the first Day of December, 1758, All Male Persons, Planters, and Inhabitants and their Servants, between the Ages of Sixteen and Sixty, residing in and belonging to this Province, shall bear Arms and duly attend all Musters and military Exercises of their respective Companies where they shall be enlisted or belong, allowing Three Months Time to every Son after coming to Sixteen Years of Age, and every Servant so long after his Time is out, to provide themselves with Arms and Ammunition.

Preamble.

Persons liable to Train.

II. And the Clerk of each Company, once a Quarter Yearly; shall take an exact List of all Persons living within the Precincts of such Company, and present the same to the Captain or chief Officer, on Pain of forfeiting Forty Shillings for each Default, to be paid to the Captain or chief Officer to the Use of the Company, and in Case of Non Payment, to be levied by Distress and Sale of the Offenders Goods, by Virtue of a Warrant from the Captain or chief Officer, who is hereby impowered to grant the same.

Clerk to take a List of the Company once a Quarter.

III. That every Person enlisted in any Company, shall so continue and attend all Duty in such Company, or otherwise suffer the Penalty by Law provided, until orderly dismissed or removed out of the Town or Precinct of such Company, and in Case of Removal into the Precinct of another Company in the same Town, to produce a Certificate under the Hand of the Captain or chief Officer of the Precinct whereunto he is removed, that he is enlisted there.

Persons to attend Duty where enlisted.

IV. If any Person liable to be enlisted as aforesaid, do exempt himself by shifting from House to House, or Place to Place, to avoid being so enlisted, he shall pay as a Fine for every such Offence, to

Penalty 10s. on such as shall attempt to avoid enlisting.

the Use of the Company to which he properly belongs, *Ten Shillings*, being thereof convicted before any one of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed.

V. That every Militia enlisted Soldier and other Householder residing as aforesaid, shall be always provided with proper and sufficient Fire Arms, consisting of a Musket, Gun, or Fuzil, not less than *Three Feet* long in the Barrel, two spare Flints, and Twelve Charges of Powder and Ball suitable to their respective Fire Arms, and to the Satisfaction of the Commission Officers of the Company to which he belongs, on Penalty of *Forty Shillings*, for want of such Arms as is hereby required, and *Two Shillings* for each other defective Appurtenant; and the like Sum for every *Four Weeks* he shall so remain unprovided or deficient: The Fine to be paid by Parents for their Sons under Age and under their Command, and by Masters or Heads of Families for their Domesticks or Servants, other than Servants upon Wages; to be levied on the Goods and Chattels of the Offender or Offenders, their Parents or Masters, by Warrant under the Hand and Seal of one or more of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed, and for want of sufficient Distress, such Offender or Offenders to suffer *One Month* Imprisonment and hard Labour.

VI. That Regimental Musters shall be made once in every *Six Months*, or as often as shall be required by the Governor or Commander in Chief of this Province for the Time being, and every Captain or Chief Officer of any Company or Regiment, shall be obliged, on Penalty of *Five Pounds*, to draw forth his Company, or cause them to be drawn forth, once every *Three Months* and no more, to exercise them in Motions, the Use of Arms, and shooting at Marks, or other military Exercises, which every Person liable to be trained, having *Three Days* Notice thereof, and not appearing and attending the same, shall, for each Day's Neglect, pay a Fine of *Five Shillings*.

VII. That the Commission Officers of any Company, or the major Part of them, may order the correcting and punishing Disorders and Contempt on a Training Day, or on a Watch; the Punishment not being greater than Commitment to hard Labour, not exceeding *Forty Eight Hours*, or *Five Shillings* Fine.

VIII. That there be *military Watches* appointed and kept at such Times, in such Places, in such Numbers, and under such Regulations, as the Governor or Commander in Chief of this Province for the Time being shall appoint; and that all Persons able of Body, and that are of Age, shall by themselves, or some proper Person in their stead, to the Satisfaction of the Commanding Officer of the Watch, attend the same, on Penalty of *Ten Shillings* for each Defect, there having been due Warning given.

IX. Every

Militia Soldiers
how to be armed.

Regimental Musters
and Training of
Companies.

Power of Com.
mission Officers.

Military Watches.

IX. Every Militia Soldier or other Person liable by Law, refusing or neglecting to attend military Exercises on Training Days, or military Watches, that shall not pay or have any Estate to be found whereon to levy the Fine, it shall be in the Power of the Captain or chief Officers of such Company, on the next Training Day after such Neglect, (he not having satisfied the Clerk) to punish him for such Offence by Commitment to hard Labour, not exceeding *Five Days*; and if such a Delinquent shall absent himself the *Second Day*, without giving sufficient Reason to the Captain or chief Officer for such Absence, it shall be in the Power of the chief Officer of the Company to direct a Warrant to any of the Constables of the Town wherein the said Offence shall be committed, requiring him to apprehend such Delinquent, and bring him into the Field, that he may be punished as by this Law is provided; and all Constables are hereby required to execute such Warrants accordingly.

Penalty for not attending Military Exercises.

X. That the Persons hereafter named be exempted from all Trainings, except such as shall receive Commissions in the Militia; *viz.* The Members of His Majesty's Council, the Members of the Assembly for the Time being, the Chief Justice, and other Judges of Courts, Justices of the Peace, Attorney General, Treasurer of the Province, Register of the Province, Chief Surveyor of Lands, Naval Officer, and his Deputy or Clerk, the Secretary, Ministers, Provost Marshal, Field Officers, the Collector and Surveyor of His Majesty's Customs, and the Waiter, constant Ferry Men, one Miller to each Grift Mill, constant Herdsmen, and lame Persons or otherwise disabled in Body, producing a Certificate thereof from two able Chirurgeons.

Persons exempted from Trainings.

XI. That the Members of His Majesty's Council be, and hereby are exempted from military Watches and Warding.

Members of the Council exempted from Watches and Warding.

XII. That the Captain and Commission Officers of each Company shall, and are hereby fully impowered, to nominate and appoint proper Persons to serve as *Serjeants* and *Corporals* in their respective Companies, and to displace them and appoint others in their Room, as they shall see Occasion.

Commission Officers to appoint Serjeants and Corporals.

XIII. That twice every Year, or oftner if required, every Captain or chief Officer of each Company, shall give Order for a diligent Enquiry into the State of his Company, and for taking an exact List of the Names of his Soldiers, and other Inhabitants within the Limits of his Company, and of the Defects of Arms or otherwise, and Names of the defective Persons, that they may be prosecuted as the Law hath provided, and that such Care may be taken as is proper to remedy the same.

View of Arms to be made twice a Year.

XIV. That if any Person who is by Law obliged to provide Arms and Ammunition, cannot purchase the same by such Means as he hath, if he bring to the Clerk of the Company the full Value thereof, according to the Appraisalment of the Clerk and two other Persons

How Persons unable to buy Arms, may be provided.

Persons mutually chosen, he thereupon shall be excused from the Penalties for want of Arms and Ammunition, until he can be provided, which the said Clerk shall provide as soon as may be, by Sale of such Goods, and render the Overplus, if any be; but the Party shall notwithstanding give his personal Attendance upon all Occasions as other Militia Soldiers, until he be supplied, and at such Times shall perform any proper Service he may be put upon by the Captain or chief Officer of the Company he belongs to: But if the Person be adjudged unable to buy Arms, or to lay down the Value proposed, if he be a single Man, he shall be put out to Service by any two of His Majesty's Justices of the Peace, to earn wherewith to buy Arms and Ammunition.

Penalty 40s. for refusing to serve as Clerk.

XV. That such proper Person as by the Commission Officers of any Company shall be appointed Clerk, and shall refuse to serve, shall pay *Forty Shillings* Fine, and another be chosen in his Room, and so until one do accept; which Person shall be under Oath for the faithful Discharge of his Office, to be administered unto him by a Justice of the Peace of the County, in the Words following.

Clerk's Oath.

YOU do swear truly to perform the Office of Clerk of the military Company under the Command of A. B. Captain, to the utmost of your Skill and Power, in all Things appertaining to your Office, according to Law.

So help you G O D.

His Allowance.

XVI. And for every Distraint made for any Fine not exceeding *Forty Shillings*, he shall have one Quarter Part for his Pains and Trouble, and for such Fines he may distrain *ex officio*, and in such Distresses shall observe such Rules as the Law hath provided in other Cases; and upon *Ten Days* Notice shall account with and pay the Captain or chief Officer what Fines he hath received, his own Part being deducted.

Meeting of the Chief Officers of the Regiment,

XVII. The chief military Officer of the Regiment, as often as he shall see cause, shall require the Captain or chief Officer of each Company in his Regiment, to meet at such Time and Place as he shall appoint, and there with them to confer, and give in Charge such Orders as shall by them, or the major Part of them, be judged meet for the better ordering and settling their several Companies, and for the better promoting military Discipline amongst them; and the chief Officer is hereby empowered by his Warrant, directed to any Clerk or Officer of his Regiment, to summon or cause to be brought before them any Offender against this Act; and according to Law to hear and determine all Matters proper for their Cognizance, and to give Sentence, and to grant Mittimus or Warrants of Distress to the Clerk of the Company where the Offence is committed; for executing which Warrant, if above *Forty Shillings*, he shall have *Ten Shillings* out of the same for his Pains and Trouble therein, and no more.

their Power.

Clerk not to distrain *ex officio*,

XVIII. That no Clerk *ex officio* make Distraint for any Fine until *Six Days* after the Offence committed, that so the Party may have

have Opportunity to make Excuse, if any he hath, why he should not pay the Fine, and every Clerk that neglects or refuses to account or make Payment as by this Law is provided, he, by a Warrant from the chief Officer of the Company, directed to the Constable, may be distrained on for so much as he hath or should have collected or distrained for.

until Six Days after the Offence committed.

XIX. That all Officers yield Obedience to the Warrants or Commands of their Superior Officers, on Penalty of *Five Pounds*, to be heard and determined at the next Meeting of the chief Officers and Captains of the Regiment, and the Fine to be taken by Distress and Sale of the Offender's Goods, (returning the Overplus if any be) by Warrant from the chief Officer of the Regiment, directed to the Clerk of the Company to which such Offender belongs, and to be applied to the Use and Benefit of such Company as the Officers so met shall agree, their Expences being first defrayed out of the same, not exceeding *Twenty Shillings*.

Penalty £5. on Officers disobeying their Superior Officers.

XX. That an Alarm at the Citadel in the Town of *Halifax*, being made upon such Causes as are agreeable to Instructions to be given by the Governor or Commander in Chief for the Time being, to the Officer commanding at the said Citadel, shall be by firing a Beacon at the Summit of the Citadel Hill, or such other Place as the Governor or Commander in Chief for the Time being shall hereafter appoint, and by firing four Guns at the Parade in the Town of *Halifax*, or at such other Place as the Governor or Commander in Chief for the Time being shall appoint, distinctly one after the other, and also by firing four Guns at *George's Island*, distinctly one after the other, and at the Distance of *Five Minutes* after the Firing the Four first mentioned Guns at the Parade, or such other Place as aforesaid, all Persons being called up to Arm, upon which all the trained Officers, Soldiers, and others capable to bear Arms, that are then resident in the said Town, Suburbs, or Peninsula of *Halifax*, in Case the Alarm should be made, shall forthwith appear compleat with their Arms and Ammunition according to Law, at such Place or Places of Rendezvous as may, from Time to Time, be appointed by the Governor or Commander in Chief for the Time being, there to attend such Commands as shall be given for His Majesty's Service, and that on the Penalty of *Five Pounds*, or *Three Months Imprisonment*. The Members of His Majesty's Council, Justices, and Provost Marshal, to attend upon His Excellency the Governor, if at *Halifax*, and in other Places to appear and advise with the chief Military Officers of the Place where such Alarm shall be made, and to be assisting in His Majesty's Service according to their Quality. And if any Person shall wilfully make any false Alarm he shall be fined to His Majesty *Fifty Pounds*, for Support of the Government, or suffer *Twelve Months Imprisonment*. And all Alarms in other Parts of the Province, to be according to Instructions given by the Governor or Commander in Chief for the Time being, to the Officers commanding there.

Alarm, how to be made.

Penalty 5l. not appearing upon an Alarm.

Penalty 40s. for firing Guns, &c. after Sunset at Halifax, &c

XXI. And for the better preventing of false Alarms, *Be it further Enacted by the Authority aforesaid*, That no Captain, Master or Commander of any Ship or Vessel, riding at Anchor or being within the Harbour of *Chebuco*, or any other Person or Persons whatsoever, either afloat or on shore, within the Town, Suburbs, or Peninsula of *Halifax*, the Town or Suburbs of *Dartmouth*, or Places adjacent, shall presume to fire any Guns or small Arms, or beat any Drum, after Sunset, unless on some lawful Occasion, under the Penalty of *Forty Shillings* for every Gun or small Arm so fired or Drum beaten, to be levied by Warrant from any one of His Majesty's Justices of the Peace for the County of *Halifax*, (who is hereby empowered to issue the same and to give Judgment thereupon) by Distress and Sale of the Offender's Goods, and for Want of such Distress, to commit such Offender to the Gaol, there to remain until Payment be made of the same.

Not to extend to Officers of His Majesty's Ships or Troops, firing in the Execution of their Duty.

XXII. *Provided always*, That this Clause shall in no wise be construed to extend to any Captain or other Officer of any of His Majesty's Ships of War, for their Firing at setting the Watch, nor to any of His Majesty's Troops on Shore or on Board, in the Execution of their Duty.

Persons exempted from Training to be provided with Arms and Ammunition.

XXIII. That all Persons exempted by this Law from Training shall, notwithstanding, be provided with Arms and Ammunition complete, upon the same Penalty as those that are obliged to Train.

Prosecution to be within three Months.

XXIV. *Provided*, That no Person or Persons whatsoever shall be sued, prosecuted, or his Goods and Chatels liable to any Seizure, by Virtue of any Clause in this Act before mentioned, but within the Space of *Three Months* after the committing the respective Facts hereby made Offences, and not at any Time after the said *Three Months*.

Fines how to be recovered and disposed of.

XXV. All Fines, Penalties, and Forfeitures arising by Virtue of this Act or any Breach thereof, (not otherwise disposed of therein) shall be for the Use of the Regiment or Company respectively wherein the same doth arise, (*that is to say*) for the procuring and repairing Drums, Colours, Banners, Halberts, Pay of Drummers, or other Charge of the said Company, and the Overplus, (if any be) to be laid out in Arms and Ammunition for a Town Stock: And be recoverable by Action, Bill, Plaint, or Information, in any of His Majesty's Courts of Record.

Militia at Halifax, not to Watch, &c. without the picketed Lines, whilst Regular Troops are there.

XXVI, *And it is hereby humbly requested of His Excellency the Captain General*, by the Assembly, *And be it Enacted*, That whilst there is a sufficient Number of regular Troops within the Town of *Halifax*, for its Defence, the *Militia* of the Town shall be spared from Watching and Warding without the Picketed Lines of the Town.

C A P. VII.

An ACT for Establishing the Rate of *Spanish Dollars*,
and *the Interest* of Money within this Province.

Repealed by His
Majesty in Council

C A P. VIII.

An ACT for erecting a *Light House* at the Entrance
of the Harbour of *Halifax*.

Exec.

C A P. IX.

An ACT for erecting a *House of Correction*, or *Work-
House*, within the Town of *Halifax*.

Exec.

C A P. X.

An ACT to prevent *forestalling the Market*.

HEREAS large Quantities of live Stock, fresh Provision,
and other Articles, are imported into this Province for Sale
from the neighbouring Colonies, and divers Persons make a
Practice of engrossing the same immediately upon the Arrival
thereof, to the great Prejudice of the Inhabitants; Be it enacted by His
Excellency the Governor, Council, and Assembly, and by the Authority
of the same it is hereby Enacted, That all Kinds of live Stock, (Oxen
and Sheep excepted) all dead fresh Provision, Grain, Hay, Roots, or Gar-
den Stuff, which shall be imported for Sale into any Port of this
Province, after Publication hereof, shall, by the Importers thereof,
be brought to some Public Wharf, and there openly exposed to
Sale, for Forty Eight Hours; and public Notice shall be given
thereof through the Town or Place where the same shall be so
imported, by the common Cryer: And no such live Stock or
dead fresh Provision whatsoever, Grain, Hay, Roots, or Garden
Stuff, shall, during the said Forty Eight Hours, be sold, or
contracted for in Gros, to or with any Person or Persons whatso-
ever, on Penalty of the Forfeiture of the Article or Articles so sold
or bought, or contracted for, or the Value thereof, upon Conviction
by the Oath of one credible Witness before any two of His
Majesty's Justices of the Peace, to be levied by Warrant of Dis-
tress, under the Hands and Seals of the said Justices; One Half of
such Forfeitures to be to the Use of the Informer, and the other
Half to the Use of the Poor of the Place where such Forfeiture shall
be incurred.

Preamble.

Live Stock, Dead
fresh Provisions, &c.
to be exposed to
Sale 48 Hours
on some public
Wharf.

Notice to be given
thereof by the Cryer.

not to be ingrossed
on Pain of forfeiting
the Value.

II. Provided,

Not to extend to Flour, Biscuit or Fish.

II. *Provided always*, That nothing in this Act shall be construed to extend to the Importation of *Flour* of all Kinds, *Biscuit Bread*, or *Fish*.

Dead fresh Provision, perishing, excepted.

III. *Provided also*, That in Case any *dead fresh Provision* shall, at any Time be imported, which by the length of the Passage, or other Accident, shall be perishing, or in a decaying Condition, That then, upon Application of the Importer to Two of His Majesty's Justices of the Peace, setting forth upon Oath, such the Condition of the Provision so Imported, such Justices may, and they are hereby empowered, under their Hands and Seals, to grant Permission to such Importer, immediately to sell and dispose of such Provision in the speediest manner, any thing in this Act contained to the contrary *notwithstanding*.

Prosecution within Ten Days.

IV. *And be it further Enacted*, That all Prosecutions under this Act, shall be within *Ten Days* after the Offence committed.

C A P. XI.

An ACT relating to *Wills*, *Legacies*, and *Executors*, and for the Settlement and Distribution of the Estates of *Intestates*.

✽✽✽ *Be it enacted by His Excellency the Governor, Council, and*
 B *Assembly, and by the Authority of the same it is hereby enacted,*
 ✽✽✽ That every Person shall have Power to give and devise, by his or her last *Will and Testament* in Writing, and signed by the Party so giving and devising, or by some other Person in his Presence, and by his express Directions, and attested and subscribed, in the Presence of the Devisor, by Three or more credible Witnesses, any *Lands, Tenements, or Hereditaments*, whereof he or she shall, at the Time of his or her so giving or devising the same by such *Will*, be lawfully seized, either of a Sole Estate in Fee simple, or of any Estate in Coparcenary, or in Common in Fee simple, in Possession, Reversion, or Remainder, as much as in him of Right is, to the said *Lands, Tenements and Hereditaments*, or in like Manner to devise any Rents or Profits out of the same at his Pleasure. *Provided*, that *Wills* made of any *Lands, Tenements, or Hereditaments*, or any Rents or Profits out of the same, by any *Woman Covert*, or Person within the Age of *Twenty One Years, Idiot*, or of *unsound Mind*, shall not be good in Law.

II. *And be it further Enacted*, That no *Devise* in Writing of any *Lands, Tenements, or Hereditaments*, shall be revocable, otherwise than by some other *Will* or *Codicil* in Writing, or other *Writing* signed in the Presence of Three or more Witnesses, declaring the same, or by burning, cancelling, tearing or obliterating the same by the *Testator* himself, or in his Presence, and by his Directions and Consent.

III. *And*

Eng. Stat. 34 & 35. H. 8. c. 5. Sec. 4. 14. 29. Car. 2. c. 3. Sec. 5. 6.

Any Person may, by their last Will, Devise Lands, &c.

3. Lev. 86. Cartbrow 135. 514. 3. Mod. 218. 262.

Feme Covert, &c. excepted.

To Devise in Writing to be revocable by another Will,

Mod. 260.

III. *And be it further Enacted by the Authority aforesaid, That from and after the First Day of January, in the Year of our Lord One Thousand Seven Hundred and Fifty nine, no Nuncupative Will shall be good, where the Estate thereby bequeathed, shall exceed the Value of Thirty Pounds, that is not proved by the Oath of Three Witnesses (at the least) that were present at the making thereof, nor unless it be proved that the Testator, at the Time of pronouncing the same, did bid the Persons present, or some of them bear Witness, that such was his Will, or to that Effect; nor unless such Nuncupative Will was made in the Time of the last Sickness of the Deceased, and in the House of his or their Habitation or Dwelling, or where he or she hath been Resident, for the Term of Ten Days or more, next before the making of such Will, except where such Person was surpris'd or taken sick, being from his own House, and died before he returned to the Place of his or her Dwelling.*

Eng. Stat. 29. Car. 3.
c. 3. Sect. 19.
Nuncupative Will.

IV. *And be it further Enacted, That after Six Months past after the speaking of the pretended Testamentary Words, no Testimony shall be received to prove any Will Nuncupative, except the said Testimony or the Substance thereof, be committed to Writing, within Six Days after making the said Will.*

Eng. Stat. 29. Car. 3.
c. 3. Sect. 20.
Not to be proved
after Six Months
unless, &c.

V. *And be it further Enacted, That no Letters Testamentary or Probate of any Nuncupative Will, shall pass the Seal of any Court, till Fourteen Days, at the least, after the Decease of the Testator be fully expired, nor shall any Nuncupative Will be at any Time received to be proved, unless Process have first issued to call in the Widow, or next of Kindred to the Deceased, to the End they may contest the same. And all such Witnesses as ought to be allowed to be good Witnesses upon Trials at Law, shall be deemed good Witnesses to prove any Nuncupative Will, or any Thing relating thereunto.*

Eng. Stat. 29. Car. 3.
c. 3. Sect. 21.
Letters Testamen-
tary, &c. not to
pass any Court
14 Days after the
Testator's Decease

Eng. Stat. 29. Car. 3.
c. 16. Sect. 14.

VI. *And be it further Enacted, That no Will in Writing, concerning any Personal Estate shall be repealed, nor shall any Clause, Devise, or Bequest therein, be altered or changed by Words or Will, by Word of Mouth only, except the same be, in the Life of the Testator, committed to Writing, and, after the Writing thereof, read unto the Testator and allowed by him, and proved to be so done, by Three Witnesses at the least. Provided nevertheless, That any Soldier, being in actual Military Service, or any Mariner or Seaman, being at Sea, may dispose of his Moveables, Wages, and Personal Estate, as they might have done before the making this Act, and that nothing in this Act shall alter the Jurisdiction or Right of Probate of Wills, concerning Personal Estates vested in the Governor, or Commander in Chief for the Time being, who shall retain the same Right and Power as they had before in every respect, subject nevertheless to the Rules and Directions of this Act.*

Eng. Stat. 29. Car. 3.
c. 3. Sect. 22. &c.
No Will in Writing
concerning Personal
Estate, to be re-
pealed, or chang-
ed, by Word of Mouth
only, unless comm-
itted to Writing
in the Life of the
Testator.

Soldiers and Ser-
men excepted.

Not to extend to
Probate of Wills
concerning Person-
al Estates, vested
in the Governor.

Eng. Stat. 29. Car. 3.
c. 3. Sect. 24.

Executors, knowing of their being appointed, to prove Wills in 30 Days, &c.

on Penalty of 5l. per Month.

Eng. Stat. 21. H. 8. c. 5. Sect. 3. Upon the Executor's Refusal, the Judge to commit Administration to the Widow, or next of Kin, and on their Refusal, to Principal Creditors.

Penalty for suppressing Wills.

Legacies ascertain'd, recoverable at the Common Law.

Executors to exhibit an Inventory of the Estate of the Deceased, within 3 Months after Probate, on Pain of 5l. for every Month's Neglect.

liable to account in like Manner as Administrators.

VII. And be it further Enacted by the Authority aforesaid, That if any Executor or Executors of the Will of any Person deceased, knowing of their being so named and appointed, shall not, within the Term of Thirty Days next after the Decease of the Testator, cause such Will to be proved, and recorded in the Register's Office, of the same County where the deceased Person last dwelt, or present the said Will, and declare his or their Refusal of the Executorship; every Executor so neglecting his or her Trust and Duty in that Behalf, (without just Excuse made and accepted for such Delay) shall forfeit the Sum of Five Pounds every Month, from and after the Expiration of the said Thirty Days, until he or they shall cause Probate of such Will to be made, or present the same as aforesaid: Every such Forfeiture to be had and recovered by Action of Debt, in the Inferior Court of Common Pleas in the same County, at the Suit of any of the Heirs or Creditors, and for the Use of him or them that shall inform and sue for the same. And upon any such Refusal of the Executor or Executors, the Judge shall commit Administration of the Estate of the Deceased, with the Will annexed, unto the Widow, or next of Kin to the Deceased, and upon their Refusal, to one or more of the principal Creditors as he shall think fit.

VIII. And be it further Enacted, That if any Person or Persons shall be found guilty of suppressing any last Will and Testament, such Person or Persons shall be subject and liable to the same Penalty, as by this Act is prescribed for Persons neglecting to prove any last Will and Testament.

IX. And be it further Enacted, That where any certain Legacy is or shall be bequeathed, and given by any Person in his or her last Will and Testament, as also where any Residuary or uncertain Legacy is, or shall, by the Account of any Executor, be reduced to a Certainty, every such Legacy and Legacies as aforesaid, may be sued for and recovered at the Common Law; any Law, Custom or Usage to the contrary notwithstanding.

X. And be it further Enacted, That henceforth every Executor named in any Will, taking upon him that Charge by proving such Will, within the Space of Three Months next after Probate thereof, (or at such further and longer Time, as the Judge of Probate shall see meet to allow, the Circumstances of any Estate requiring the same) shall exhibit into the Register's Office, upon Oath, a full and true Inventory of the whole Estate of the Deceased, so far as is then come to his Hands and Knowledge; and shall add thereto what and so much as may further afterwards appear, on Pain of forfeiting Five Pounds for every Month's Neglect thereof afterward, as is by Law provided for not presenting a Will, and to be recovered in like Manner. Provided nevertheless, That in Wills where, after the Payment of Debts, and of any certain particular Legacy or

or Legacies, the Residue or Remainder of the Estate, is bequeathed generally to any one or more Persons, other than the Executors themselves; in every such Case, an Inventory of the Estate shall be presented upon Oath as aforesaid, and the Executors shall be liable to account as Administrators are, by Law, obliged to do.

XI. And any Executor being a residuary Legatee, may bring his Action of Account against his *Co Executor* or *Executors*, of the Estate of the *Testator*, in their Hands, and may also sue for and recover his equal and rateable Part thereof. And any other residuary Legatee shall have like Remedy against the Executors.

Residuary Legatee may bring Action of Account against Executors.

XII. And be it further enacted, That when and so often as it shall happen that any Person dies *Intestate*, upon Application of the Widow or next of Kin to the *Intestate*, within *Thirty Days* after the Death of such *Intestate*, the said *Judge of Probate* shall grant *Letters of Administration* to such Widow or next of Kin: And in case they neglect to apply within the said *Thirty Days*, upon first citing such Widow or next of Kin, and their Refusal to accept the same, such *Judge of Probate* shall grant Administration to such Person or Persons as he shall judge fit; and he shall thereupon take Bond with Sureties, in Manner as is directed by the Statute of the *Twenty Second* and *Twenty Third* of *Charles the Second*, Chapter the *tenth*, intituled, *An Act for the better settling Intestates Estates*; and shall and may proceed to call such Administrators to Account for, and touching the Goods of the *Intestate*: And upon due Hearing and Consideration thereof, (Debts, Funeral, and just Expences of all Sorts, being first allowed) the said *Judge* shall, and hereby is fully impowered, to order and make a just Distribution of the *Surplusage*, or remaining Goods and Estate, as well *Real* as *Personal*, in Manner following, *That is to say*, *One Third Part* of the *Personal Estate*, to the Wife of the *Intestate* for ever, besides her Dower in the *Houses* and *Lands* during Life, where such Wife shall not be otherwise Endowed before Marriage; and the said *Judge*, having appointed *Guardians* in Manner as hereafter may or shall be by Law prescribed for all *Minors*, shall then, out of all the Residue of such *Real* and *Personal* Estate, (a) distribute *two Shares* or a *double Portion* to the *Eldest Son* then Surviving, (where there is no Issue of the *First* born, or of any other *Elder Son*) and the Remainder of such Residue equally to and amongst his other Children, and such as all legally represent them; *Provided* that Children advanced by settlement or Portions not equal to the others Shares, shall have so much of the *Surplusage*, as shall make the Estate of all to be equal, except the *Eldest Son* then Surviving (where there is no Is-

Administration, Eng. Stat. 22 & 23, Car. 2. c. 10. Sect. 2. Vaughan 96.

and Distribution of Estates of Intestates.

(a) Respecting the Distribution of Personal Estate, Vide 22 & 23 CAR. II. c. 10. Sect. 4. Fern. 465. 2 Mod. 20. 101. 3 Mod. 58. Shower 25. As to the Distribution of Inheritances different from the Course of Descents at Common Law, this Act was founded upon Acts of Assemblies in other Colonies, particularly of the Massachusetts Bay, which Act, after solemn Hearing and Argument before His Majesty in Council, about the Year 1735, in the Case of Philips and Savage, by Appeal from a Decree of the Governor and Council of that Province, was judicially ratified and confirmed.

sue of the *First* born, or of any other *Elder* Son) who shall have ~~two~~ Shares or a *double Portion* of the whole.

Children advanced
in the Lifetime of
the Intestate.

XIII. *And be it further Enacted*, That such Estate wherewith such Child or Children, have been advanced in the Lifetime of the *Intestate*, shall be accounted for upon the Oath of such Child or Children, before such *Judge of Probate of Wills*, and for granting *Letters of Administration*, or by other Evidence to the Satisfaction of the *Judge*; and in Case of Refusal to Account upon Oath, such Child or Children, so refusing, shall be debarred of any Share in the Estate of the *Intestate*.

Division of Lands.

XIV. *And it is hereby Enacted*, That the Division of such *Lands* or *Tenements*, shall be made by *five* sufficient Freeholders upon Oath, or any *three* of them, to be, for that Purpose, appointed and sworn by the *Judge*. *Provided nevertheless*, that if all the Parties interested in such *Lands* or *Tenements*, being of lawful Age, shall, by *Deed*, agree to a Division, such Agreement, being acknowledged before the *Judge* by the Parties subscribing and sealing the *Deed*, the said *Deed* being entered on Record in the *Probate Office*, shall be deemed a legal and valid Partition and Settlement of such Estate, as effectually to all Intents as if the same had been divided and settled by *Writ of Partition*, and be received and allowed in Evidence, on any Trial against the Parties so interested in the said *Lands* and *Tenements*.

Of Estates in Houses
and Lands which
cannot be divided
without Prejudice
to the whole.

XV. *Provided nevertheless*, That where any Estate in *Houses* and *Lands* cannot be divided among all the Children, without great Prejudice to the whole, the said *Judge* may, on Evidence of the same, order the whole unto the *Eldest* Son, or, upon his Refusal, to any other of the Sons successively; He paying unto the other Children of the Deceased, their equal and proportionable Parts or Shares of the true Value of such *Houses* and *Lands*, upon a just Appraisement thereof, to be made by *three* sufficient Freeholders upon Oath, to be appointed and sworn as aforesaid, or giving good Security to pay the same in some convenient Time, as the said *Judge* shall limit, making reasonable Allowance in the mean Time, not exceeding *Six Pounds* by the *Hundred* in the Year. And if any of the Children happen to die, before he or she come of Age, or be married, the Portion of such Child deceased, shall be equally divided among the Survivors. And in case there be no Children, or any legal Representatives of them, then *One Moiety* of the *Personal Estate* shall be allotted to the Wife of the *Intestate* for ever, and *One Third* of the *Real Estate* for *Term of Life*. The Residue both of the *Real* and *Personal Estate*, equally to every of the next of Kin of the *Intestate* in equal Degree, and those who legally represent them. No Representatives to be admitted among Collaterals after Brother's and Sister's Children. And if there be no Wife, all shall be distributed among the Children, and if no Child, to the next of Kin to
the.

Of Portions of
Children dying un-
married or under
Age.
1. Vent. 316.

the *Intestate* in equal Degree, and their legal Representatives as aforesaid, and in no other Manner whatsoever. And every one to whom any Share shall be allotted, shall give Bond with Sureties before the said *Judge of Probate*, if Debts afterwards be made to appear, to refund and pay back to the Administrator, his or her rateable Part thereof, and of the Administrators Charges.

1 Salk. 250. Raym. 496.

XVI. And it is hereby Enacted, That the Lands and Tenements wherewith any Widow shall be so endowed as aforesaid, shall, after the Decease of such Widow, be divided in like Manner as by this Act is directed.

Widow's Dower, after her Death to be divided in like Manner.

XVII. Saving to any Person aggrieved at any Order, Sentence, or Decree made for the Settlement and Distribution of any *Intestate* Estate, their Right of Appeal unto the Governor and Council: Every Person so appealing, giving Security to prosecute the Appeal with Effect. Provided that such Appeal be made within *Thirty Days* after Sentence by the *Judge of Probate*.

Persons aggrieved may appeal to the Governor and Council.

XVIII. And be it further Enacted, That all such Estate, Real or Personal, as is not comprized in any last Will and Testament, or is not plainly devised or given by the same, shall be distributed in the same Manner as *Intestate Estates* are directed to be distributed by this Act.

Estates not comprized in any last Will, to be distributed as *Intestate Estates*.

XIX. And be it further Enacted, That in case that *Personal Assets* shall be deficient for the Payment of any Debts or Legacies, and it shall be found necessary by any Executor or Administrator to make Sale of any Part of the *Real Estate* of the Deceased, for the Payment of any Debts or Legacies, such Executor or Administrator shall apply to the *General Assembly** to grant a Licence for the Sale of such Part of such *Real Estate*, as may be most convenient for the Payment of such Debts or Legacies, and before any Sale be made of any *Real Estate*, the Executor or Administrator shall give *Thirty Days* publick Notice, by posting up Notifications in the most publick Places in the Town where the deceased Person last dwelt, and in the *publick Prints*, if any such there be; and whoever will give most shall have the Preference in such Sale. And in Case the Estate of such *Intestate* shall be *Insolvent*, the Executor or Administrator shall make like Application to the *General Assembly* for an *Inquiry*, and for the Appointment of Commissioners to inquire into such *Insolvency*, and to examine and settle the Claims of all Creditors, and the Amount of the Estate of such *Insolvent*, and to authorize such Executor or Administrator to sell all the *Lands and Tenements* of

Where Personal Assets are deficient, Real Estate shall be sold for Payment of Debts and Legacies.

In case of Insolvent Estates, the General Assembly shall appoint Commissioners to settle the Claims of Creditors, and to sell Real Estate to pay them.

* Vid. an Addition to this Act, 34. G. II. c 5. whereby the Jurisdiction is given to the Governor and Council, instead of the General-Assembly.

such *Insolvent*, and to divide the Produce of the whole of such Estate, in due Proportion to and among the Creditors.

For the Construction of Wills by the Common and Civil Law, *Vide* SWINBURN'S Treatise of Testaments and last Wills; and for the Devise of Real Estates by the 29. Car. 2. c. 3. *Vide* Equity Cases abridged TRY. Wills and Testaments.

Legatees and Devisees are enabled to attest the Execution of Wills by *Brit. Stat. 5. Geo. 2. c. 6.*

C A P. XII.

An A C T to prevent the Sale of *Slop Cloathing*, and for punishing the Concealers or Harbourers of *Seamen* or *Marines* deserting from the *Royal Navy*.

Preamble.

✽☉☉✽ *HEREAS* for the better carrying on the present War, it *W* has been His Most Gracious Majesty's Royal Will and Pleasure, from Time to Time, to send large Squadrons of His Ships of War into North-America: And Whereas the Harbour of Halifax in this His Majesty's Province of NOVA-SCOTIA, from its Situation, great Convenience, and Safety for Capital Ships, hath always hitherto been, and probably during the War, will continue to be the Rendezvous of His Majesty's Fleet in that Part of His American Dominions. And Whereas many and great Inconveniences have arisen to the Service of the Royal Navy, by Persons enticing, assisting, harbouring and concealing Seamen deserting from His Majesty's Ships, and by buying the Slop Cloaths issued to Seamen on board His Majesty's Ships, by means whereof they become subject to Impositions, and are induced to sell their necessary Cloathing to procure Spirituous Liquors, whereby they are rendered unfit for Duty, become Diseased and Die for want of proper Apparel to defend them against the Inclemencies of the Weather, and by Means of such Practices, the Commanders of His Majesty's Ships of War have been under a Necessity of detaining such Seamen on board, not only to the great Prejudice of their Health by such Confinement and want of Exercise, but also to the Disadvantage of the Province, from the want of the Assistance and Labour of such Seamen. For Remedy whereof, Be it enacted by His Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby Enacted, That if any Person shall entice any Seaman or Marine to desert, or harbour, conceal, or assist any Deserter from any Ship of War, knowing him to be such, the Person so offending shall forfeit the Sum of *Twenty Pounds*, on Conviction by one or more credible Witnesses, before any *three* Justices of Peace, (*quorum unus*) for the Use of His Majesty's Government, to be levied by Distress, and for Want of such Distress, the Person so offending shall be committed to His Majesty's Gaol, there to remain without Bail or Mainprize for the Space of *six Months*, or till such Time as the said Fine shall be paid.

Persons enticing Seamen or Marines to desert, &c. forfeit £20. or to suffer Six Months Imprisonment. Conviction before three Justices.

II. *And be it further Enacted*, That if any Person shall buy or receive as a Pledge, or exchange any *Slop Cloaths* from any *Seaman* or *Marine* belonging to any of His Majesty's *Ships of War*, upon Conviction thereof, or Confession, or by the Oath of one credible Witness, or if such *Cloaths* shall be found in the Possession of any Person, upon Complaint that they were bought from, or pledged or exchanged by such *Seamen* or *Marines*; in such Case the Party offending shall pay a Fine of *five Pounds, Forty Shillings* of which to the Informer, and *Three Pounds* to the Use of His Majesty's Government; and the *Cloaths* shall be taken from such Person and returned to such *Seaman* or *Marine*, and he to be utterly debarred from Recovering in any Action, the Purchase or Loan Money for the same. Any Person offending may be convicted of such Offence before any one or more of His Majesty's Justices of the Peace, who are hereby impowered to levy the Penalty by Distress, and in Default of Distress to commit the Offender to His Majesty's Gaol, there to remain without Bail or Mainprize for the Space of *two Months*, or till such Time as the Penalty shall be paid.

Penalty £5. buying, &c. any Slop Cloathing.

III. *Be it further Enacted*, That it shall and may be lawful for any Person, upon seeing or knowing of any *Seaman* or *Marine* belonging to any of His Majesty's *Ships of War*, selling or exposing to Sale any of his or their *Cloathing* or *Slops*, to apprehend such *Seaman* or *Marine*, and carry him or them immediately to some Justice of the Peace of the County, who is hereby impowered to commit such *Seaman* or *Marine* to His Majesty's Gaol, and to deliver him or them over to the Captain, or other Officer of the Ship to whom he or they may belong.

Any Person may apprehend Seamen or Marines selling their Cloaths.

IV. *Be it further Enacted by the Authority aforesaid*, That on Information made on Oath, before any of His Majesty's Justices of the Peace, by any of the Officers of His Majesty's *Ships of War*, That one or more of the *Seamen* in His Majesty's Service have deserted or absconded, who there is Reason to believe lie concealed in some Dwelling or Outhouse, where the said Officer has been refused Admittance; that then it shall and may be lawful for such Justice of the Peace, before whom such Complaint is made, to issue his Warrant to some one or more Constables impowering him or them, in the Day Time, to search for said Deserters or Absconders, in any Dwelling or Outhouse that shall be suspected for Concealing said Deserters or Absconders, accompanied by one Officer only, either *Lieutenant* or *Midshipman*, and no other *Seaman* or *Marine* with him, and in Case any Master or Mistress of any Dwelling-House or Outhouse in this Province, shall refuse Entrance to said Constable or Constables, so impowered by Warrant as aforesaid to search for said Deserters or Absconders, they shall forfeit the Sum of *Twenty Pounds*, upon Conviction, to be levied by Warrant of Distress under the Hand and Seal of two of His Majesty's Justices of the Peace, from off the Offenders Goods; and

Any Justice may grant a Warrant to search for Deserters, where the Officer has been refused Admittance.

Constable to search in Company of one Officer only.

Persons refusing Admittance forfeit £20.

and for Want of such Distress, shall be committed to His Majesty's Gaol for *six Months*; and that it shall and may be lawful for any of His Majesty's Justices of the Peace, who are hereby required upon Information on Oath as aforesaid, in the Night Time in his own Person, attended with the Constables, accompanied by one Officer, either *Lieutenant* or *Midshipman*, and noother *Seaman* or *Marine* with him, to demand Entrance into any Dwelling House or Out-house in this Province, on Suspicion of Deserters or Absconders being concealed there, and the Master or Mistress refusing Entrance to such Justice of the Peace so demanding Entrance in the Night Time, shall forfeit the Sum of *Twenty Pounds*, to be levied as aforesaid upon Conviction; and for Want of such Distress, to be committed to His Majesty's Gaol for *six Months*; the aforesaid Sums to be for the Uses of this Government: And that the Person or Persons so apprehended supposed to be Deserters or Absconders from His Majesty's Service, shall be committed to His Majesty's Gaol, until Proof is made before one or more of His Majesty's Justices of the Peace, of his or their Desertion or Absconding, and then to be delivered up to such Officer or Officers of His Majesty's Navy who shall make Demand of said Deserter or Deserters. And in Case said Person or Persons so committed are not Deserters, Absconders, or shall not be in His Majesty's Service, then such Person or Persons to be discharged without Cost.

Any Justice may in the Night demand Admittance, and on Refusal, the Master of the House to forfeit £.20. or suffer six Months Imprisonment.

Deserters to be committed till delivered to their Officers.

Act to continue during the present War.

V. *And be it further Enacted by the Authority aforesaid, That this Act shall be and continue in Force during the present War and no longer.*

VI. This Act to Commence and be in full Force from Seven Days after the Publication hereof.

This Act made perpetual by 34. Geo. 2. c. 1.

C A P. XIII.

An A C T relating to *Treasons* and *Felonies*.

Treason.

E it enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That if any Person or Persons shall compass or imagine the Death of the King, or shall levy War against Him or adhere to his Enemies, or give them Aid or Comfort, or shall forge or counterfeit the Kings Money, being Gold or Silver Coin of England or of Great Britain, or shall counterfeit the King's Great

Eng. Stat. 25. Ed. 3.
Stat. 5. c. 2. & Eng.
Stat. 1. Mar. c. 1.
Assembling to alter
Laws, &c. Treason,
Kel. 75-77.

Cases

Seal or Privy Seal, or the Seal of this Province, and shall thereof be duly convicted, the Person or Persons so offending are hereby declared, and shall be adjudged to be *Traitors*, and shall suffer as in Cases of *High Treason*; (a) and that all Treasons declared by the Acts of Parliament of *England* or of *Great Britain*, shall be deemed and adjudged to be *Treason* within this His Majesty's Province, and none other (b), and that such Acts of Parliament as direct the Proceedings and Evidence against, and Trials of such *Traitors*, shall have their full Force and Effect, and be observed as the Rule in all Trials for *Treason* in this Province.

Brit. Stat. 7. Ann.
c. 21.
Eng. Stat. 7. Will. 3.
c. 3.
Witnesses in Treason,
Kel. 49.

II. And be it further Enacted, That if any Person with Malice Prepense shall kill, or procure any other Persons to kill, or shall on Purpose and of Malice forethought, and by lying in wait, unlawfully cut out or disable the Tongue, put out an Eye, slit the Nose, cut off a Nose or Lip, or cut off or disable any Limb or Member of any Person, with Intention to kill or to maim or disfigure any such Person, the Persons so offending, their Counsellors, Aiders and Abettors, privy to the Offence, shall be *Felons* without Benefit of Clergy. Provided that no Attainder of such *Felony*, shall work Corruption of Blood, or Forfeiture of Dower, Lands or Goods of the Offender (c).

Murder & Maimem,
Felony without
Clergy.

Eng. Stat. 1. Ed. 6.
c. 12. Sect. 10.

Eng. Stat. 5. Hen. 4.
c. 5. & Eng. Stat.
22. & 23. Car. 2.
c. 1.

III. And be it further Enacted, That every Person, who shall stab or thrust any Person that hath not then any Weapon drawn, or that hath not then first stricken the Party who shall so stab or thrust, so as the Persons, so stabbed or thrust, shall thereof die within the Space of *six Months*, altho' it cannot be proved that the same was done of Malice forethought, yet the Party so offending and being thereof convicted, shall be excluded from the Benefit of Clergy (d).

Stabbing.
Felony without
Clergy.
Eng. Stat. 1. Ja. 1.
c. 8.

IV. Provided, That this Act shall not extend to any Persons, who shall kill any Person in his own Defence or by Misfortune, or in any other Manner than as aforesaid, nor shall extend to any Persons, who in keeping the Peace, shall chance to commit *Man slaughter*, so as the said *Man slaughter* be not committed wittingly and of Purpose, under pretext and colour of keeping the Peace; nor shall

Man slaughter by
Misfortune &c.

(a) 1. Hawk. P. C. c. 17. Pa. 34.—46. 3. Inst. pa. 1.—19. Kel. 80. 1. Hale's Hist. P. C. and Judge Foster's Discourse on High Treason subjoined to his Reports, published in 1762, and Vide his Discourse on Accomplices, in what Sense and Degree all are Principals in Treason, Sect. 1.—4.

(b) Treasons by Statutes subsequent to 25. Ed. 3. c. 2. Vide 1. Hawk. P. C. c. 17. Statutes corresponding, &c. with the Pretender, Vide Eng. Stat. 13. & 14. Will. 3. c. 3. Sect. 3. 6. Ann. c. 7. 17. Geo. 2. c. 39.

(c) Vide State Trials, 6. Vol. pag. 212. Woodbourne and Coke's Case.

(d) Kel. 136. 1. Hale's Hist. P. C. 1. Hawk. P. C. c. 30. Judge Foster's Disc. on Homicide, c. 6. Of the Statute of Stabbing.

extend to any Person who, in chastising or correcting his Child or Servant, shall besides his Purpose, chance to commit *Manlaughter* (e).

Murder of Bastard Children.
Felony without Clergy.
Eng. Stat. 21. Ja. 1. c. 27. continued by Eng. Stat. Car. 1. c. 4. till continued or discontinued by Parliament.

V. *And be it further Enacted*, That if any Woman be delivered of any Issue of her Body, Male or Female, which being born alive, should by the Laws of the Realm of *England* be a Bastard, and that she endeavour privately, either by Drowning or secret Burying thereof, or any other Way, either by herself, or the procuring of others, so to conceal the Death thereof, as that it may not come to light whether it were born alive or not, but be concealed, the Mother so offending shall suffer Death as in Case of *Murder*, except such Mother can make Proof by one Witness, that the Child whose Death was by her so intended to be concealed, was born dead (f).

Buggery.
Felony without Clergy.
Eng. Stat. 25 Hen. 8. c. 6. revived & made perpetual by Eng. Stat. 5. Eliz. c. 17.

VI. *And be it further enacted*, That the detestable Sin of *Buggery* committed with Mankind or Beast, shall be adjudged *Felony*, and such Process therein be used as in Cases of *Felony* at *Common Law*, and the Offender or Offenders being convicted by Verdict, Confession or Outlawry, shall suffer the Pains of Death, and Loss of their Goods, Lands and Tenements, as *Felons*, and no Person guilty of such Offence shall be admitted to his Clergy: And Justices of the Peace shall have Power to inquire of the said Offence as in other *Felonies*. And if any Person or Persons, shall make an Assault, with an Intent to commit the Sin of *Buggery*, such Offender or offenders, shall, on due Conviction thereof, be adjudged to stand in the Pillory, and may, for further Punishment, be fined, imprisoned, or be bound in Sureties for his or their good Behaviour, at the Discretion of the Court. (g)

Assault with Intent to commit Buggery. Pillory, &c.

Rape.
Felony without Clergy.
Eng. Stat. Westm. 2. 13. Ed. 1. c. 34.
Complaint in Ten Days.
By Eng. Stat. West. 1. 3. Ed. 1. c. 13. Appeals of Rape were limited to 40 Days. Vide 1. Hale's Hist. P. C. 632. 633.

VII. *And be it further Enacted*, That if any Person or Persons shall, by Force, and against the Consent of any Woman, or Infant above the Age of *Twelve Years*, have Carnal Knowledge of her Body, every such Offender or Offenders shall, on due Conviction of such Ravishment, suffer as a *Felon* without Benefit of Clergy. *Provided always*, that if Complaint shall not be made of a Ravishment within *ten Days* afterwards, before one of His Majesty's Justices of the Peace or other Magistrate, that then such Fact shall be adjudged to have been committed by and with the Consent of such Woman or Infant (h).

(e) Kel. 28. 64. 65. John Grey's Case. Dalton 351. Keilway's Reports 136. a
(f) 2. Hale's Hist. P. C. pa. 288. 289. 2. Hawk. P. C. c. 46. Sect. 43. Kel. 32. Ann Davis's Case.
(g) 3. Inst. 58. 12. Co. 36. & 77. 1 Hawk. P. C. c. 4. 1 Hale's Hist. P. C. 628. 669. 670. Lord Audley's Case State Trials.
(h) 1. Hawk. P. C. c. 41. 1. Hale's Hist. P. C. 626-637.

VIII. *And be it further Enacted,* That if any Person shall unlawfully have Carnal Knowledge of any Female Child under the Age of *Twelve Years*, tho' with her Consent, every such unlawful and Carnal Knowledge shall be *Felony*, and the Offender being thereof duly convicted, shall suffer as a *Felon*, without Benefit of Clergy. And every violent Assault and Battery committed on the Body of such Woman or Infant, with Intent to ravish, shall be punished by adjudging the Offender or Offenders, upon due Conviction thereof, to stand in the Pillory, and the Judge or Judges of the Court, wherein he shall be so convicted, may for further Punishment, Fine and Imprison, and require Sureties for the good Behaviour, at his or their Discretion (*i*).

Rape on Infants;
Felony without
Clergy.
Eng. Stat. 18 Eliz.
c. 7. Sect. 4.

Assault with Intent
to ravish, Pillory,
&c.

IX. *And be it further Enacted,* That if any Person or Persons shall by Night break open and enter any Dwelling House, Shop or Warehouse, or any Vessel lying so near the Land that it be adjudged within the County, with an Intent to commit any *Felony*, whether such felonious Intent be executed or not (*k*).

Burglary,
Eng. Stat. 23 Hen. 8.
c. 1. 5. Ed. 6. c. 9.
18 Eliz. c. 7. Sect. 1.

X. Or shall rob any Dwelling House in the Day Time, any Person being therein, or break any Dwelling House, Shop or Warehouse thereunto belonging, or therewith used, in the Day Time, and feloniously take away any Money or Goods of the Value of *Five Shillings* therein being, altho' no Person shall be within such Dwelling House, Shop, or Warehouse, or shall rob any other, or feloniously take away any Goods in any Dwelling House, the Owner or any other Person, being therein and put in Fear.

Robbery by Day.
Eng. Stat. 3 Will.
& Ma. c. 9. Sect. 1.

XI. Or if any Person or Persons shall by Night or by Day, rob or by Violence take Money, or Goods, from any Person putting him in Fear, in any Highways, or in any Streets or Lanes of a Town.

Robbery from the
Person in High-
ways, &c. by Night
or by Day.
Eng. Stat. 3. Will.
& Ma. c. 9. Sect. 1.

XII. Or shall Feloniously take Money or Goods from the Person of any other, privily without his Knowledge.

Stealing privily.
Eng. Stat. 8 Eliz.
c. 4.

XIII. Each and every of the Offenders aforesaid, their Aiders and Abettors, shall, upon due Conviction, suffer as *Felons*, without Benefit of Clergy.

1 Hawk. P. C. c. 35.
Aiders & Abettors.
Felony without
Clergy.

XIV. *And be it further Enacted,* That if any Person or Persons shall steal, or take by Robbery, any Bills of Exchange, Bonds, Warrants, Bills, or Promissory Notes for the Payment of Money, being the Property of any other Person, notwithstanding any of

Stealing Bills of
Exchange, &c.
Eng. Stat. 2. Geo. 2.
c. 25.

(i) 3. Inf. c. 11. 1. Hale's Hist. P. C. 630. 631. 634. & 635. Cro. Car. 332. Martyn Page's Case. 1. Hawk. P. C. c. 41. Sect. 4, 5.

(k) 1. Hawk. P. C. c. 38. 1. Hale's Hist. P. C. 547, &c. 3 Inf. c. 14. Kel. 30, 52, 63, 67. *in fraudem legis* by false Pretences. Kel. 42-47, 62, 81-85.

the said Particulars are termed in Law a *chose in Action*, it shall be deemed *Felony* of the same Nature, and with or without the Benefit of the Clergy or of this Act, in the same Manner as it would have been if the Offender had stolen or taken by Robbery, any other Goods of the like Value with the Money due on such Bills of Exchange, Bonds, Warrants, Bills, or Notes, or secured thereby, and remaining unsatisfied, and shall suffer such Punishment as if he, she or they, had stolen other Goods of the like Value.

Not to work Corruption of Blood &c.

XV. *Provided*, That no Attainder for any such Offence, so made *Felony*, shall work any Corruption of Blood, Loss of Dower, or Disinheritance of Heirs.

Receivers of Stolen Goods, Accessaries. *Eng. Stat. 3 Will. & Ma. c. 9. Sect. 4.*
* *Vide Note at the End of this Act.*

XVI. *And be it further Enacted*, That if any Person or Persons shall buy or receive any Goods that shall be stolen, knowing the same to be stolen, he, she, or they, shall be deemed Accessaries to the *Felony* after the Fact, and that it shall be lawful to prosecute and punish Persons buying or receiving stolen Goods, knowing the same to be stolen, or that shall be Accessary to such *Felony* before or after the Fact, as for a *Misdemeanor*, to be punished by Fine and Imprisonment, altho' the principal *Felon* be not before convicted of the said *Felony*, which shall exempt the Offender from being punished as Accessary, if the Principal shall be after convicted*.

Robbing Lodgings. *Eng. Stat. 3 Will. & Ma. c. 9. Sect. 5.*

XVII. *And be it further Enacted*, That if any Person or Persons shall take away with an Intent to steal, imbezil, or purloin, any Goods, Chattels, or Furniture, which by Agreement they are to use, or shall be let to them to use in his, her, or their Lodging, such taking, imbeziling, or purloining, shall be adjudged to be *Larceny* and *Felony*(1).

Servants imbeziling Master's Goods. *Eng. Stat. 21 Hen. 8. c. 7.*

XVIII. *And be it further Enacted*, That if any Servant or Servants shall go away with the Caskets, Jewels, Money, Goods or Chattels, delivered to his, her or their Keeping, by his, her or their Master or Mistress, with Intent to steal the same, and defraud his, her or their Master or Mistress thereof, contrary to the Trust and Confidence in them reposed, or being in Service, without Assent or Commandment of his, her or their Master or Mistress, shall imbezil or convert the same to his, or her Use, with Purpose to steal the same, being of the Value of *Forty Shillings* or above, every such Offender or Offenders shall, upon due Conviction, suffer Death as in Cases of *Felony*, without Benefit of Clergy(m).

(1) 1. Hawk, P. C. c. 33. Sect. 10. Kel 24. 81. Not *Felony* at Common Law, because no Trespass, and without Trespass there can be no *Felony*.

(m) 1. Hale's Hist. P. C. c. 63. pa. 666—669. 1. Hawk. P. C. c. 33. Sect. 11—17. 3. Inst. c. 44.

XIX. *Provided* that any Apprentice or Apprentices, within the Age of Fifteen Years, shall be intitled to the Benefit of Clergy, for the first Offence.

Not to extend to Apprentices.
Eng. Stat. 12 An. Stat. 1. c. 7. Sect. 2.

XX. *And be it further Enacted*, That if any Person or Persons shall wilfully and maliciously burn, or cause to be burned, any Dwelling House, Barn, Outhouse, or Warehouse, of another, or any Publick Building, or any Hövel, Cock, Mow, Rick, or Stack of Corn, Straw, Hay, or Wood, of another, all and every such Person or Persons so offending, and their Aiders, Abettors, and Counsellors, shall, upon due Conviction, suffer as *Felons*, and be excluded from the Benefit of Clergy (*n*).

Houseburning.
Eng. Stat. 25 Hen. 8. c. 3.

XXI. *And be it further Enacted*, That whosoever shall maliciously shoot at any Person or Persons, in any Dwelling House or other Place, or shall knowingly send any Letter without any Name, or signed with a fictitious Name, demanding from any Person or Persons, Money or other valuable Thing, such Offender or Offenders, being duly convicted thereof, shall suffer as *Felons*, without Benefit of Clergy.

Anonymous Letters
Brit. Stat. 9 Geo. 1. c. 22. Sect. 1.

XXII. *And be it further Enacted*, That whosoever shall feloniously take and carry away any Money or Goods, in any other manner than is herein before declared and provided for, or shall imbezil any of his Majesty's Stores, or the Utensils, Furniture or Cloathing, in any Storehouse or Hospital of His Majesty, if such Offender or Offenders shall be found guilty of such *felonious* taking or carrying away of such Money, or Goods, or of imbezilling any of His Majesty's Stores, or the Utensils, Furniture, or Cloathing in any Storehouse or Hospital of His Majesty, as aforesaid, to the Value of *Twenty Shillings* or more; Every such Offence shall be *Larceny* and *Felony*; and if the Value shall be found by Verdict on Trial to be less than *Twenty Shillings*, then such Offence shall be punishable as *Petit Larceny*, by such publick Whipping as the Court, before whom such Offender shall be convicted, shall direct, and it shall and may be lawful for such Court to order the Offender to make full Restitution, and in Default thereof to commit such Offender to the House of Correction, there to be put to hard Labour, for a Term not exceeding *Three Months*, as the Judges, in their Discretion, shall think fit.

Stealing in any other Manner.
Brit. Stat. 4. Geo. 1. c. 11. Sect. 1.
or imbezilling the King's Stores,

Larceny & Felony.

XXIII. *And be it further Enacted*, That all Monies, Goods, Chattels, Merchandizes, or Stores, found in Possession of any Burglar, Housebreaker, Robber, Thief, or Purlainer, shall be delivered by the Justice of Peace who shall take the Examination of

Restitution of Stolen Goods.
Eng. Stat. 21. Hen. 8. c. 11. 2. Hawk. P. C. c. 23. Sect. 49—53.

(n) 1. Hawk. P. C. c. 39. 1. Hale's Hist. P. C. c. 49. pa. 566. et seq. 3. Inst. c. 15. Judge Foster's Reports, Elizabeth Harris's Case at Aylesbury Lent Assizes, 1753. Cro. Car. 376. Holmes's Case.

such Offender, into the Custody of the Provost Marshal or his Deputy, or Constable of the Town where the Offence shall be committed, who shall be answerable for the same until the Offender be convicted; and the Judge or Judges of the Court, wherein such Offender shall be convicted, shall order the said Money, Goods or Stores, to be restored to the lawful Owners thereof^(o); and where no Owner shall appear to claim the same, they shall be adjudged to be forfeited.

Where no Owner appears, Goods to be forfeited.

To be given by Jury to Prosecutor, tho' Evidence not sufficient to convict Offender.

XXIV. And in Cases where the Evidence shall not be sufficient to convict of a *felonious* Intent, and the Jury shall declare that the Property of such Money, Goods, or Stores, is in the Prosecutor, it shall and may be lawful for the Court to order such Money, Goods, or Stores, to be delivered to such Prosecutor.

Not to debar the Party of his Action.

XXV. *Provided nevertheless*, That such Delivery shall not debar the Party so acquitted, or any other Person who may claim the same, from his or her Action for the Detainer of such Money, Goods or Stores, so delivered to the Prosecutor.

Accessaries.
Eng. Stat. 1. An.
Stat. 2. c. 9. Sect. 1.

XXVI. *And be it further Enacted*, That notwithstanding the Allowance of Clergy, and burning in the Hand of any *Principal* Offender, the *Accessaries* to such Offender shall be arraigned and tried in the same manner, as if such Clergy had not been allowed.

Clergy allowed but once.
Offenders to be burnt in the Hand,
Eng. Stat. 4. Hen. 7.
c. 13.

XXVII. *And be it further Enacted*, That every Person which once hath been admitted to the Benefit of his Clergy, being afterwards arraigned, shall not be admitted to the Benefit of his Clergy; and that every Person convicted for *Manslaughter*, shall be marked with an *M*, upon the Brawn of the left Thumb, and for any other *Felony*, the Person convicted shall be marked with a *T*, in the same Place: These Marks shall be made by the Gaoler in open Court. And if any Person convicted of any *Felony*, for which he ought to have the Benefit of his Clergy, shall pray to have the Benefit of this Act, he shall not be required to read, but without any reading shall be allowed to be, and punished as a Clerk Convict, which shall be as effectual and as advantageous to him as if he had read as a Clerk.

Eng. Stat. 5. Ann.
c. 6. Sect. 4.

And discharged out of Prison.

XXVIII. And after Allowance of such Clergy and Burning in the Hand, such Person shall be enlarged and delivered out of Prison, by the *Judge* or *Judges* of the Court before whom such Clergy shall be granted: *Saving* that such *Judge* or *Judges* may, for the further Correction of such Persons to whom Clergy shall be allowed, keep them in Prison, or send them to the House of Correction, for such convenient Time as the said *Judge* or *Judges* in their Discretions,

Eng. Stat. 18 Eliz.
c. 7. Sect. 2, 3.

(o) Kel. 35, 47 & 48, Restitution shall be made, tho' the Goods were sold in Market Overt. 2 Ink. 714. Accord. Restitution shall be made of such Goods only as are comprized in the Indictment. 2 Bac. Ab. 461. 2 Hawk. P. C. c. 23. Sect. 55, 56, 57.

shall think fit, so as the same do not exceed *One Year's* Imprisonment, or to punish them by publick Whipping.

XXIX. And that where a Man, convicted of any *Felony*, may demand the Benefit of his Clergy, a Woman convicted for the like Offence, upon her Prayer to have the Benefit of this Act, Judgment of Death shall not be given against her upon such Conviction, or Execution awarded upon any Outlawry for such Offence, but such Woman shall suffer the same Punishment as a Man that has the Benefit of his Clergy allowed him in the like Case, (*that is to say*) shall be burned in the Hand by the Gaoler in open Court, and may [for further punishment, be kept in Prison, or sent to the House of Correction, for such Time as the *Judges* shall think fit, so as the same do not exceed one Year, or be ordered to be publickly whipped, as the *Judge* or *Judges*, before whom such Woman is convicted, shall, from the Quality of the Offence, think meet.

Woman to be punished in the same Manner as a Man.

Eng. Stat. 3. & 4. Will. & Ma. c. 9. Sect. 6, 7.

XXX. And the *Clerk* of the *Court* or *Affizes* where such Man or Woman shall be convicted, shall, at the Request of any in His Majesty's Behalf, certify a *Transcript* containing the Tenor of every *Indictment* and *Conviction* of such Man or Woman, of his having the Benefit of the Clergy, or her having the Benefit of this Act, and the Addition of every such Person, and the Certainty of the *Felony* and *Conviction*, to the *Judge* or *Judges* of the *Court* or *Affizes* where such Man or Woman shall be indicted; which Certificate, being produced in *Court*, shall be a sufficient Proof that such Man hath before had the Benefit of his Clergy, and that such Woman hath had the Benefit of this Act, in the same Manner as if the Record had been produced.

Clerk to certify a Transcript, &c. of Allowance of Clergy.

XXXI. And if any Person or Persons indicted of any Offence, for which, by Virtue of this Act, they are excluded from the Benefit of Clergy, or of this Act, shall, if they stand mute or will not answer directly to the *Felony*, or shall challenge peremptorily above *Twenty* of the Jury, or shall be outlawed thereupon, be ousted of the Benefit of the Clergy or of this Act, and Judgment shall be pronounced and Execution awarded, as if such Person or Persons had been convicted of such Offence by Verdict or Confession.

Prisoner standing mute, &c. ousted of Clergy.

Eng. Stat 3 & 4. Will. & Ma. c. 9.

Sect. 2.

By Pro. Law, 34. Geo. 2. c. 9. This peremptory Challenge shall be overruled.

XXXII. *And be it further Enacted*, That in all Cases where the Benefit of Clergy or of this Act shall be allowed, if the Prisoner shall not, upon his Arraignment, answer directly according to Law, or shall willfully stand mute, or shall peremptorily challenge above *Twenty* Jurors, or if any Person be outlawed on any Indictment for such *Felony*, such Person or Persons shall be proceeded against by the Court, in the same Manner as if he, she, or they had been convicted by Confession or Verdict.

Where Clergy is allowed, Prisoner standing mute, &c. to be proceeded against as if convicted by Verdict.

XXXIII. *Provided nevertbeless*, That no Man who hath had the Benefit of the Clergy allowed him, nor any Woman who hath had
the

The Benefit of this Act not to be allowed more than once.

Eng. Stat. 4 & 5 Will. & Ma. c. 24. Sect. 13.

Persons allowed Clergy shall answer to other Felonies excluded Clergy. Eng. Stat. 18. Eliz. c. 7. Sect. 5.

Witnesses for Prisoners shall be sworn, & punishable for Perjury. Eng. Stat. 1. Ann. Stat. 2. c. 9. Sect. 3.

Indictments, &c. to be according to the Practice of England.

Former Convictions confirmed.

Saving for Judgments depending.

the Benefit of this Act, shall have the Benefit of Clergy or of this Act, for any *Felony* committed since his or her having had the Benefit of Clergy or of this Act as-aforsaid, and that no Person shall be allowed the Benefit of Clergy or of this Act, more than once, but shall, for any *Felony* by him or her committed after being allowed the Benefit thereof, be utterly debarred from having the Benefit of the same again.

XXXIV. *Provided* also, That if any Man admitted to his Clergy, or any Woman admitted to the Benefit of this Act, shall, before such his or her Admission, have committed any Offence, whereupon Clergy is not allowable by this Act, and not being thereof indicted and acquitted, convicted, or attainted, or pardoned, shall and may be indicted or appealed for the same, and put to answer as if no such Admission to the Benefit of Clergy or of this Act had been.

XXXV. *And be it further Enacted*, That every Person who shall be produced or appear as a Witness on the Behalf of the Prisoner upon any Trial for *Murder* or *Felony*, before he or she be admitted to give Evidence, shall first take an Oath to depose the Truth, in such Manner as the Witnesses for the King are, by Law, obliged to do; and if any Witness be convicted of willful Perjury in such Evidence, he shall suffer all the Penalties, Forfeitures and Disabilities, which, by Law, may be inflicted on Persons convicted of willful Perjury.

XXXVI. *And be it further Enacted*, That all Indictments, Processes, Pleadings, and Trials, and the Rules of Evidence upon any Trials for any *Felonies* or *Misdemeanors*, either by the Common Law of England, or by Virtue of this Act, shall be according to the Usage, Practice and Laws of England.

XXXVII. And that all Convictions, Attainders, Judgments, and Executions, for any *Felonies* or *Misdemeanors*, before the making of this Act, shall be good and valid in Law, and the same are hereby ratified and confirmed.

XXXVIII, *Saving* to all and every Person and Persons, all such Advantages in Law, upon any Judgment that may be depending in any Court of Record, at the Time of making this Act, in the same Manner as if this Act had not been made.

* *A Receiver of Stolen Goods may be prosecuted as for a Misdemeanor, only where the Principal is not in Custody and amenable for the Felony. Judge Foster's 3d Disc. Of Accompli. Subjoined to his Report. c. 3. Sect. 6.*

Vide an Addition to this Act, 34. Geo. 2. c. 9.

Polygamy declared to be Felony by Prov. Act; 32. Geo. 2. c. 17.

Theft at Fires Felony by Prov. Act; 2. Geo. 3. c. 4.

Mutiny and Desertion by Militia Soldiers in Time of War, punishable with Death by Prov. Act, 2. Geo. 3. c. 6,

Taking Rewards to help Persons to stolen Goods, is, by Brit. Stat. 4. Geo. 1. c. 11. declared to be Felony, unless they cause the Felon to be brought to Trial.—This Act is extended to His Majesty's Dominions in America.

C A P. XIV.

An Act for preventing *Trespasses*.

B E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, in order to regulate Fences, and to prevent Damages being done to the Proprietors of inclosed Lands by unruly Cattle, That all Fences belonging to any inclosed Lands shall be built or made with Stone, Pickets, Boards, or Posts and Rails, or Log Fence, unless the Lands are bounded by Ponds, unfordable Rivers or the Sea; and such Fences shall be, at least, Four Feet and an half high: And if any Damage be done by breaking such Inclosures, and destroying any of the Product thereof, by Horses, Sheep, Hogs, and Neat Cattle, if such Inclosures shall, at the Time of such Damage, be inclosed by a good and sufficient Fence, agreeable to this Law in the Judgment of the Fence Viewer, who is hereby appointed to view the same, the Owners of such Trespassing Cattle, shall pay to the Party injured, the Value of all such Damages, to be ascertained, on the Appraisement thereof, by Three credible Persons, living in the Neighbourhood, being first sworn before One of His Majesty's Justices of the Peace of the County where such Lands lie, truly to value the same; and in Case the Owner of the said Cattle or Hogs, shall refuse to pay the Value of such Appraisement, upon Notice thereof given him, the injured Party may have and maintain his Action therefor, before any One or more of the said Justices, or before the *Inferior Court of Common Pleas*, according to the Value of such Damage.

Fences to be made
of Stone, &c.

Owners of Trespassing Cattle to pay Damages.

II. And whereas the Owners and Proprietors of Fields, lying and being adjoining to other inclosed Fields, do neglect to fence in their proportionable Part of such Fields, Be it Enacted by the Authority aforesaid, That the Proprietor of any Field, adjoining to another inclosed or improved, shall build up and maintain his Part or Proportion of Fencing, with a good and sufficient Fence of Four Feet and an half high, on that Part of such Land as is adjoining to his own; and in Case he neglects so to do within the Space of Ten Days after Notice given him, it may and shall be lawful, and any One of the Fence Viewers, upon Application being made to him, in such Case is hereby impowered forthwith to cause such deficient Fence to be raised or made, or otherways to repair any Fence already made, if, in his Judgment, the same is insufficient: and the Person or Persons that of Right ought to build and maintain the same, shall pay double the Costs and Charges expended for the doing thereof; and in Case of Refusal, such Fence Viewers may recover the same by Action on the Case, according to the Value in Manner aforesaid. *Provided always*, that no Fence Viewers shall be al-

Proprietors of Fields to fence their Proportion, or on their Neglect,

the Fence Viewer to make or repair such Fence; and the Proprietor to pay double the Cost.

lowed more than Three Shillings *per* Day in his Account, for his own Trouble and Time expended therein. And if any Fence Viewer, when notified, shall neglect his Duty herein, he shall forfeit Forty Shillings for every Offence.

III. *And be it further Enacted*, That no Swine shall be permitted to go at large within the Streets, Lanes or Suburbs of *Halifax*: And it shall and may be lawful for the Hogleaves, so often as they shall find any Swine going at large within the Streets, Lanes and Suburbs of the said Town, to impound them, and as soon as may be, cause the same to be publickly cried, for which he shall be paid two Shillings and six Pence per Head, and three Pence per Day for supporting each Swine, whilst impounded; and if the Owner thereof doth not appear, or refuses, within three Days, to claim the said Swine, and pay the Charges, that then the Hogleaves are hereby authorized to sell such Swine at publick Auction, and after deducting all Charges, the Overplus shall be paid to the Owner, when demanded.

Hogleaves to take up Swine going about the Streets, &c. at Halifax, and impound and cry them.

To be sold if not owned in 3 Days.

Surveyors of Highways to have the Care of the Streets, &c. at Halifax.

IV. *And be it further Enacted*, That the Surveyors of Highways, by this Act appointed, shall have the Care and Supervisal of all the Streets, Lanes, and Highways of the Town and Suburbs of *Halifax*, and are hereby impowered to prevent the same from being obstructed or incumbred, and to cause the same to be mended, at the Charge of the Proprietors of Land bordering thereon: And they are hereby required to present all Nufances in the said Streets, Lanes, and Highways, within the Limits above mentioned, at the next *General Quarter Sessions* of the Peace, which is hereby impowered to proceed against such Offences according to the Laws of *England* in such Cases made and provided.

V. *And be it further Enacted*, That the Committee of the *General Assembly*, to be appointed for that End, shall and are hereby impowered to nominate Four suitable Overseers of the Poor, Two Persons for Clerks of the Market, Two Persons for Fence Viewers, Two Persons for Hogleaves, and Four Persons for Surveyors of Highways, to serve for the Town of *Halifax*, till the *Sessions* of the *Supream Court*, *Court of Assize* and *General Gaol Delivery*, to be held in *October* next, at which Time the *Grand Jury* of said *Court* are hereby impowered to choose other meet Persons to serve in their room, and so from Year to Year; and the said Persons, so nominated or chosen, shall be sworn to the faithful Discharge of the Duty of their several Offices; and the Person or Persons who shall refuse to serve in the said Offices, to which they are respectively nominated or chosen as aforesaid, shall forfeit and pay the Sum of *Forty Shillings* each, and the said Committee or *Grand Jury* are hereby authorized to nominate or choose other Persons to serve in their stead.

Town Officers to be appointed by a Committee of the General Assembly, to serve till next Supream Court, when the Grand Jury shall appoint others, and so on annually.

Persons refusing to serve, forfeit 40s.

C A P. XV.

An Act for making *Lands and Tenements* liable to the
Payment of *Debts*.

*E*t it Enacted by His Excellency the Governor, Council, and
Assembly, and by the Authority of the same it is hereby Enacted,

That from and after the Publication hereof, when any
Person or Persons shall recover Judgment in any of His

Majesty's Courts of Record within this Province, for any Sum or
Sums of Money, or for Costs of Suit, and the Person or Persons

against whom Judgment shall be recovered, shall be either unwill-
ing or unable to satisfy such Judgment by Money or otherwise, or

sufficient *Personal Estate*, whereon to levy Execution on such Judg-
ment, shall not be found, then and in such Case, Execution shall

and may be extended on the *Real Estate* of such Debtor or Debtors;
and the Provost Marshal or his Deputy, upon Request to either of

them made by the Creditor or Creditors, his or their Attorney or
Agent, shall give Notice in Writing to the Debtor or Debtors, or in

their Absence to their Attorney or Agent, to nominate an Apprai-
ser, and the Creditor or Creditors shall have like Notice to nomi-
nate another on their behalf, and the said Provost Marshal or his

Deputy shall name a Third, being all discreet indifferent Men and
Freeholders; and in Case such Debtor or Creditor or either of their

Agents or Attornies shall, for the Space of three Days after such
Notice, refuse or neglect to nominate an Appraiser on their respec-
tive behalfs, or in Case such Debtor or Debtors, shall be absent

from the Province, and have no known Attorney or Agent, then
and in such Case the Provost Marshal or his Deputy shall and may

nominate an Appraiser for such Debtor or Creditor respectively:
And the Provost Marshal or his Deputy shall cause the said App-
raisers, so nominated, to be sworn before some of His Majesty's

Justices of the Peace, faithfully and impartially to the best of their
Skill and Knowledge, to appraise such *Real Estate* as shall be

shewn to them. And the said Appraisers with the Provost Mar-
shall or his Deputy shall forthwith repair to the Lands or Tene-
ments of such Debtor, and view and examine the State and Con-
dition thereof, and if upon such View and Examination, the said

Appraisers, or any two of them, shall judge that the annual Rent
of such Lands or Tenements, will be sufficient to pay such Debt,
Costs, and lawful Interest for the same, together with the neces-
sary Repairs, within Two Years, then the Provost Marshal or his

Deputy shall extend the said Execution on the Rents only, and cause
the Person or Persons in Possession, whether Debtor or Debtors, or
their Tenant or Tenants, to attorn and become Tenant to such
Creditor or Creditors, and shall pay Rent Quarterly to such Cre-
ditor

Execution, upon
Judgements, to be
levied on Personal
Estate, and if insuf-
ficient then on Real
Estate of the Debtor.

by Appraisers to be
appointed by the
Creditor, Debtor,
and Provost Marshal,

and sworn to ap-
praise such Real Es-
tate as shall be
shewn them.

Execution to extend
on Rents only, (if
sufficient to satisfy
Debt and Costs, &c.)

Rents to be paid to
the Creditor.

ditor or Creditors, who may distrain for the same, if in Arrear, according to the Laws of *Great Britain*; and the Person in Possession, refusing or neglecting to pay such Rent, when due, may be removed from such Lands or Tenements by the Provost Marshal or his Deputy. And the Creditor or Creditors shall and may hold over and receive the Rents of such Lands or Tenements, until such Judgment, Cost and Interest, shall be fully satisfied and paid.

till satisfied.

If Rents are not sufficient,

II. *And be it further Enacted*, That if upon such View and Examination as aforesaid, the said Appraisers or the major Part of them, shall be of Opinion that the yearly Rents of the Lands or Tenements of such Debtor or Debtors are not sufficient to satisfy such Debt with Cost and Interest, together with the Charge of needful Repairs within the Space of Two Years, then the said Execution shall and may be levied on Part of such Estate, if in the Judgment of the said Three Appraisers it can conveniently be done; but if not, then on the Whole of the Lands or Tenements of the said Debtor or Debtors. And the Provost Marshal or his Deputy shall immediately deliver Seizin and Possession thereof to such Creditor or Creditors, and cause the Person or Persons in Possession or Improvement thereof, to attorn and become Tenants to such Creditor or Creditors in Manner aforesaid, and pay their Rent to him or them accordingly. And such Person or Persons, so in Possession, shall be subject to be removed, and be under such Rules and Regulations as are herein before prescribed.

Execution to be levied on Part of the Real Estate if convenient, if not, then on the whole,

and Possession thereof delivered to the Creditor.

Appraisers to make and subscribe an Appraisement, to be annexed to the Execution, and returned to the Clerk of the Court.

Provost Marshal to execute a Deed of the Premises to the Creditor,

Subject to an Equity of Redemption.

Clerk neglecting his Duty, forfeits £. 5.

Debtors may redeem their Lands, &c. in two Years.

III. *And be it further Enacted*, That in all Cases where an Appraisement as herein before directed, shall be made, whether the same be of Lands or Tenements, in Part or in Whole, or of the Rents thereof only; the Appraisers shall make and subscribe a true and impartial Appraisement thereof, which said Appraisement being annexed to the Execution, and duly returned by the Provost Marshal or his Deputy, and filed and recorded therewith by the Clerk of the Court from whence the same issued, in a Book to be kept by him for that Purpose, and the Provost Marshal or other Officer serving such Execution, shall immediately execute a Deed of Sale of such Lands or Tenements, to such Creditor or Creditors, in Consideration of the Value found by such Appraisers, to be therein mentioned, who by virtue thereof, or of said Return, shall make a good Title to such Creditor or Creditors, his or their Heirs or Assigns in *Fee*. *Subject nevertheless* to an Equity of Redemption, as is herein after prescribed; and any Clerk refusing or neglecting his Duty herein, shall forfeit the Sum of *Five Pounds*, to be recovered by Action of Debt by the Party grieved.

IV. *Provided always, and it is hereby further Enacted*, That it shall and may be lawful for any Debtor or Debtors, whose Estate is taken in Execution, or their Heirs, Executors, Administrators,

or Assigns, at any Time, within the Space of Two Years next following the Levying such Execution thereon, to redeem his or their Lands or Tenements so extended, and may have his Action of Account against the Creditor or Creditors or their Assigns, in Manner as is provided by Law: And upon paying the original Debt with the Cost and Interest, and the Charges of such necessary Repairs, as the Creditor or Creditors or their Assigns have been obliged to expend, *Provided* that they do not exceed One half of the Rents, which the Creditor or Assigns, if he or they see cause, are hereby allowed to expend and lay out, and as much more as the Debtor shall consent to, (who is hereby obliged to accept the same) such Creditor or Creditors or their Assigns shall immediately surrender all such Estate to the Debtor or Debtors, their Heirs, Executors, Administrators, or Assigns, and deliver up quiet and peaceable Possession thereof.

and bring Action of Account against the Creditor for the Rents.

V. *And be it further Enacted*, That when any Estate shall be found by the Appraisers, to be of greater Value than the Debt and Cost, the Creditor or Creditors shall be obliged, at the Expiration of Thirty Days next after the End of the said Two Years, (if not sooner redeemed) to give publick Notice by Advertisement, that the Lands or Tenements, so extended, are to be sold at publick Auction by the Provost Marshal or his Deputy, who are hereby empowered to sell the same, and to execute to the Person or Persons purchasing the same, a Deed thereof as of a Fee Simple, which Deed being registred as by Law required, shall be good and valid in the Law; but in the mean Time and until such Sale shall be made, the Equity of Redemption of such Lands or Tenements, shall be open in Favour of such Debtor or Debtors, their Heirs, Executors, Administrators, or Assigns, to recover the same; and if, upon such Sale, the said Lands or Tenements, do sell for more than the original Debt, Cost, Charges, and Interest, the Creditor or Creditors, or their Attorney or Agent or Assigns, shall pay the Overplus into the Hands of the Debtor or Debtors or their Heirs, Executors, Administrators, or Assigns, the said Creditor or Creditors accounting to such Debtor or Debtors, for all Rents and Profits, first deducting for all necessary Repairs: But if the said Lands or Tenements do sell for less than the Debt, Cost, Charges and Interest, then the Creditor or Creditors, or their Heirs or Assigns, in such Case, shall and may have an *Alias* Execution against the Debtor for the Residue.

Estates appraised at a greater Value than the Debt and Costs, to be sold at publick Auction, after 30 Days from the Expiration of the Two Years, if not sooner redeemed.

If sold for more than the Debt and Costs, &c. the Creditor to pay the Debtor the Surplus, and account for the Rents and Profits;

If sold for less, the Creditor to have an *Alias* Execution.

VI. *And be it further Enacted*, That when the Real Estate of the Debtor upon Appraisement, or when the yearly Rent of the Lands or Tenements extended upon, at the End of the said Two Years, shall be found insufficient to satisfy the Judgment, with Cost, Charges, Interest, and needful Repairs; That in either Case, an *Alias* Execution may issue on the said Judgment for the Remainder, and be

If the Real Estate is insufficient, &c. Execution to be levied on other Effects, or the Body.

levied on such other Effects or Estate as can be found of the Debtor, or his Body may be taken and detained until Satisfaction be made of such Judgment, with Cost, Charges, and Interest; any Law, Usage, or Custom to the contrary notwithstanding.

Not to extend to Insolvent Debtors.

VII. *Provided*, That nothing herein contained shall extend or be construed to extend to the Detaining in Prison any poor Insolvent Debtor, contrary to the Law of this Province in that Case made and Provided*.

* *The Law here referred to, expired, and was reenacted by 3. Geo. 3. c. 5. 2. Sess.*

Vid. an Addition to this Act. 3. Geo. 3. c. 7. 2. Sess.

By Brit. Stat. 5. Geo. 2. c. 7. Lands and Tenements in the Plantations, shall be Assets for Payment of all Debts, as Real Estates are in *England* for Debts due by Bond.

C A P. XVI.

An Act for preventing Frauds by *Butchers* and *Fishmongers*.

Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted,

B That every Butcher and other Person, who shall kill or slaughter any Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle, for Sale, shall slaughter and flea the same in the most clean and plain Manner, and shall not on any Pretence, raise, or blow, or use any fraudulent or deceitful Art to set off the same; and no Butcher or other Person, shall sell or expose to Sale any Cattle killed, but what shall be killed or dressed in the most plain Manner, and according to the Meaning of this Act; and if any Butcher or other Person shall offend in any of the Premises, and be convicted of the said Offence, before One Justice of the Peace of any County, by One Witness or Confession of the Offender, or on View by such Justice, he shall forfeit such Ox, Cow, Sheep, Swine, Calf, Lamb, or other Cattle, or Part thereof, killed or dressed contrary to this Act, to be disposed of, by such Justice, among the Poor of the Town, where such Offence shall be committed, or among the Prisoners; and shall further forfeit the Sum of Five Shillings to and for the Use of the Informer, to be levied by Warrant of Distress under the Hand and Seal of such Justice.

Cattle to be slaughtered and sold in the most clean and plain Manner,

on Penalty of forfeiting the Beast, or any Part thereof, to the Poor, and 5s. to the Informer.

Conviction before one Justice.

No Person to sell any tainted Flesh or Fish, on like Penalty.

II. *And be it further Enacted*, That no Butcher or other Person shall sell or expose to Sale, any tainted Flesh or Fish, unfit for Sale, under the like Forfeiture and Penalty, to be prosecuted and recovered, and to be disposed of in Manner aforesaid, unless the said tainted Flesh or Fish be wholly unfit for Food, in which Case the

the Justice before whom such Conviction shall be had, shall cause such tainted Flesh or Fish to be burnt or otherwise destroyed.

III. *And be it further Enacted*, That the Clerks of the Market shall, and are hereby impowered, *ex officio*, to seize and take all such Flesh blown or fraudulently or deceitfully set off, or Fish tainted and unfit for Sale, and to proceed against and convict such Offenders in Manner aforesaid; and the Fines arising therefrom shall be to and for their own Use.

Clerks of the Market may seize such tainted Flesh or Fish, *ex officio*.

C A P. XVII.

An Act concerning *Marriages* and *Divorce*, and for punishing *Incest* and *Adultery*, and declaring *Polygamy* to be *Felony*.

B *It is Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted*, That any Person presuming to officiate in solemnizing any Marriage, before Notice of the Parties Intention of Marriage shall be publicly given, on Three several *Sundays* or *Holy Days*, in Time of Divine Service, in some Congregation within the Town or Towns, where each of the Parties do reside, or for which Marriage Licence shall not have been obtained, under the Hand of the Governor or Commander in Chief of the Province for the Time being, shall forfeit and pay to the Use of His Majesty's Government, *Fifty Pounds*, to be recovered by Bill, Plaint, or Information, in any of the Courts of Record within this Province.

No Marriage to be solemnized without Licence, or Notice thrice given in some Congregation,

on Penalty of forfeiting £50. by the Person officiating.

II. *And be it further Enacted*, That if any Clergyman, officiating as such in any Congregation in the Town or Towns, where the Parties reside, shall neglect or refuse to make or cause to be made such Publication when thereunto reasonably requested, he shall forfeit the Sum of *Fifty Pounds*, to be recovered in Manner aforesaid: And be subject nevertheless to an Action of Damages, to be brought by any of the Parties aggrieved.

Clergyman refusing to make Publication forfeits £50.

and liable to an Action for Damages.

III. *And be it further Enacted*, That if any Clergyman shall refuse to marry any Persons requesting him thereto, and making known to him that they have been duly published, or have obtained a Licence as aforesaid, he shall forfeit the Sum of *Fifty Pounds*, to be recovered in Manner aforesaid, and be subject to the like Action of Damages (a).

The like Penalty for refusing to marry.

(a) The preceding Restrictions and Penalties so far as they relate to Persons in Holy Orders are repealed, and Offences of this Nature by them, are remitted to the Injunctions of the Canons, by 33 Geo. 2. c. 3. Sect. 8: 2. Sefs.

IV. *And*

Polygamy to be Felony. *Eng. Stat. 1 Ja. 1. c. 11.*

IV. *And be it further Enacted*, That if any Person, being married, do marry again the former Husband or Wife being alive, such Offence shall be *Felony (b)*.

Not to extend to Marriages declared void by the Governor and Council,

V. *Provided nevertheless*, That the foregoing Clause of this Act, shall not extend to any Person whose former Marriage has been declared void, or who has obtained a Divorce by any Sentence had before the Governor and Council (c); nor shall any Attainder for this Offence work any Corruption of Blood, Loss of Dower; or Disinheritance of Heirs.

nor to work Corruption of Blood, &c.

VI. *And be it further Enacted*, That all Matters relating to prohibited Marriages and Divorce, shall be heard and determined by the Governor, or Commander in Chief for the Time being, and His Majesty's Council of this Province.

All Matters relating to prohibited Marriages &c. to be determined by the Governor and Council.

VII. *And be it further Enacted*, That no Marriage shall be declared null and void, except for the Cause of Impotence, or of Kindred within the Degrees prohibited in an Act made in the Thirty Second Year of King HENRY the Eighth, intituled *An Act concerning Precontracts and touching Degrees of Consanguinity*; and that no Decree for Divorce shall be granted for any other than the two foregoing and the two following Causes, *viz.* That of Adultery, and That of wilful Desertion and withholding necessary Maintenance for three Years together (d); in any of which Cases every Person suing for a Divorce, shall be intituled to a Decree for that Purpose, to be obtained from the Governor or Commander in Chief for the Time being, and His Majesty's Council, who shall have full Power and Authority to grant the same.

Causes of Divorce. This Clause is altered by 1 Geo. 3. c. 7. & the Power of divorcing for Wilful Desertion, &c. is by that Act repealed.

VIII. *And be it further Enacted by the Authority aforesaid*, That every Man and Woman who shall carnally know each other, being within the Degrees of Kindred forbidden in the aforesaid Act, and shall be convicted thereof before His Majesty's Supreme Court of Judicature, Court of Assize and General Gaol Delivery, or Court of General Quarter Sessions of the Peace, shall be set in the Pillory for the

Persons within the Degrees of Kindred forbidden, who shall carnally know each other, to be set on the Pillory and forfeit £50. or suffer Six Months Imprisonment.

(b) 3 Inst. 88, 89, Kel. 80. 1 Hale's Hist. P. C. 692—694. 1 Hawk. P. C. c. 43. p. 110.

The Offender against Eng. Stat. 1 Ja. 1. c. 11. may have the Benefit of his Clergy, 3 Inst. 89. tho' the Statute says he shall suffer the Pains of Death, Kelyng 104. For the Privilege of Clergy cannot be excluded without express Words.

(c) The Divorce must mean a *Mensâ & Thoro*, since a Divorce *a vinculo Matrimonii* required no Aid from a *Provisio*. 1 Hale's Hist. P. C. p. 694. Kel. 27, Tho. Middleton's Case.

Qu. Whether it excepts Divorces *Causa Scvitia*. Porter's Case, Cro. Car. 463.

Tho' the second Marriage is utterly void, yet the Offender is declared a Felon by the Statute 1 Ja. 1. c. 11.

(d) Marriage *de facto*, or voidable for Precontract, &c. is in Judgment of Law a Marriage till avoided, and within Eng. Stat. 1 Ja. 1. c. 11. 3 Inst. 88.

Space of One Hour, and further shall forfeit the Sum of *Fifty Pounds*, to the Use of His Majesty's Government, or suffer Six Months Imprisonment.

IX. *And be it further Enacted* That every Person who shall commit Adultery, and shall be thereof convicted before any of His Majesty's Courts aforesaid, shall forfeit to the Use aforesaid the Sum of *Fifty Pounds*, or suffer Six Months Imprisonment, and to be subject nevertheless to an Action of Damages by any of the Parties aggrieved.

Persons committing Adultery to forfeit £50. or suffer Six Months Imprisonment, and liable to an Action for Damages.

Vide an Amendment to this Act, 1 Geo. 3. c. 7.

C A P. XVIII.

An Act for preventing *Frauds* and *Perjuries*.

Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the *First Day* of *May* in this present Year, *One Thousand Seven Hundred and Fifty Nine*, all Leases, Estates, Interests of Freehold, or Terms of Years, or any uncertain Interest of, in, or out of any Messuages, Lands, Tenements, or Hereditaments, made or created by Livery and Seisin only, or by Parol, and not put in Writing and signed by the Parties so making or creating the same, or their Agents thereunto lawfully authorised by Writing, shall have the Force and Effect of Leases, or Estates at Will only, and shall not, either in Law or Equity, be deemed or taken to have any other or greater Force or Effect, any Consideration for making any such Parol Leases or Estates, or any former Law or Usage to the contrary notwithstanding.

Eng Stat. 29 Car. 2. c. 3. Sec. 1.—4.

After the 1st May 1759, Leases, &c. by Livery & Seisin only, or by Parol and not put in Writing,

to have the Force of Leases or Estates at Will only.

II. *Except nevertheless*, all Leases not exceeding the Term of Three Years from the making thereof, whereupon the Rent reserved to the Landlord, during such Term, shall amount unto Two Third Parts at least, of the full improved Value of the Thing demised.

Except Leases not exceeding the Term of Three Years.

III. *And be it also Enacted*, That no Leases, Estates, or Interests, either of Freehold, or Term of Years, or any uncertain Interest of, in, to or out of any Messuage, Lands, Tenements, or Hereditaments, shall, at any Time after the said *First Day* of *May*, be assigned, granted, or surrendered, unless it be by Deed or Note in Writing, signed by the Party so assigning, granting, or surrendering the same, or their Agent thereunto lawfully authorised by Writing, or by Act and Operation of Law.

No Leases, &c. to be assigned, &c. unless by Deed or Note in Writing, signed by the Party, or by Act of Law.

No Action to be brought whereby to charge any Person to answer for the Debt, &c. of another,

Unless upon an Agreement, &c. in Writing, signed by the Party to be charged.

IV. *And be it further Enacted*, That from and after the said *First Day of May*, no Action shall be brought whereby to charge any Executor or Administrator upon any Special Promise, to answer Damages out of his own Estate, or whereby to charge the Defendant upon any special Promise, to answer for the Debt, Default or Miscarriages of another Person, or to charge any Person upon any Agreement made upon Consideration of Marriage, or upon any Contract or Sale of Lands, Tenements, or Hereditaments, or any Interest in, or concerning them, or upon any Agreement that is not to be performed within the Space of One Year from the making thereof, unless the Agreement upon which such Action shall be brought, or some Memorandum or Note thereof, shall be in Writing, and signed by the Party to be charged therewith, or some other Person thereunto by him lawfully authorised (a).

Eng. Stat. 29. Car. 2. c. 3. Sect. 7.—11. No Contract to be allowed for any Goods, &c. above £. 10. unless the Buyer accept Part, or give Earnest, or sign a Memorandum in Writing.

V. *And be it further Enacted*, That no Contract for the Sale of any Goods, Wares, and Merchandizes for the Price of Ten Pounds or upwards, shall be allowed to be good, except the Buyer accept Part of the Goods so sold, or actually receive the same, or give something in Earnest to bind the Bargain or in Part of Payment, or that some Note or Memorandum in Writing of the said Bargain be made, and signed by the Parties to be charged by such Contract, or by their Agents thereunto lawfully authorised (b).

Eng. Stat. 29. Car. 2. c. 3. Sect. 7. Declarations of Trusts, &c. to be proved by some Writing signed by the Party declaring the same, or by his last Will in Writing.

VI. *And be it further Enacted*, That from and after the said *First Day of May*, all Declarations or Creations of Trusts or Confidences of any Lands, Tenements, or Hereditaments, shall be manifested and proved by some Writing signed by the Party who is, by Law, enabled to declare such Trust, or by his last Will in Writing, or else they shall be utterly void and of none Effect.

Exception as to Conveyances of Lands, &c. whereby a Trust may arise by Construction of Law.

VII. *Provided always*, That where any Conveyance shall be made of any Lands or Tenements, by which a Trust or Confidence shall or may arise or result by the Implication or Construction of Law, or be transferred or extinguished by an Act or Operation of Law, then and in every such Case, such Trust or Confidence shall be of the like Force and Effect, as the same would have been, if this Act had not been made; any Thing herein before contained to the contrary notwithstanding (c).

Grants and Assignments of Trusts to be in Writing signed by the Party, or by such last Will.

VIII. *And be it further Enacted*, That all Grants and Assignments of any Trust or Confidence, shall likewise be in Writing, signed by the Party granting or assigning the same, or by such last Will or Devise, or else shall be utterly void and of none Effect.

(a) 1 Vern. 151. Hollis versus Whiting. Cases under particular Distinctions determined to be out of the Statute of Frauds. Equity Cases abridged, Fo. 19. 20.

(b) 2. Chanc. Cases, 135. Leak versus Morrice,

(c) 2. Vent. 361. 1, Vern. 366,

IX. *And be it further Enacted,* That it shall and may be lawful for every Sheriff or other Officer, to whom any Precept or Writ shall be directed, upon any Judgment or Recognizance, to do Execution of all such Lands, Tenements, and Hereditaments, as any other Persons be seized or possessed of in Trust for him against whom Execution is sued, as if the Party against whom Execution shall be sued, had been seized of such Lands, Tenements, and Hereditaments, of such Estate as they be seized of in Trust for him at the Time of the Execution sued, which Lands, Tenements, and Hereditaments, shall be accordingly held, freed from all Incumbrances of such Persons seized or possessed in Trust.

Sheriff, &c. to execute Writs and do Execution of all such Lands, &c.

X. And if any *cestui que Trust*, shall die leaving a Trust in Fee Simple to descend to his Heirs, such Trust shall be Affets by Descent, and the Heir shall be chargeable with the Obligation of his Ancestor, as if the Estate in Law had descended to him. *Provided* that no Heir, who shall be chargeable by Reason of any Estate or Trust made Affets by this Law, shall by Reason of any Plea, Confession of the Action, or suffering Judgment by *nient de dire*, or other Matter, be chargeable to pay the Condemnation out of his own Estate, but Execution shall be sued of the whole Estate so made Affets, in whose Hands soever it shall come after the Writ purchased, in the same Manner as by the Common Law, where the Heir pleading a true Plea, Judgment is prayed against him thereupon.

Heir chargeable with the Obligation of his Ancestor.

but not out of his own Estate.

XI. *And be it further Enacted,* That any Estate *pur auter vie*, shall be deviseable by a Will in Writing signed by the Party devising the same, or by some other Person in his Presence and by his Express Direction, attested and subscribed in the Presence of the Devisor by three or more Witnesses; and if no such Devise thereof shall be made, the same shall be chargeable in the Hands of the Heir, if it shall come to him by Reason of a special Occupancy, as Affets by Descent, as in Case of Lands in Fee Simple; and in Case there be no special Occupant thereof, it shall go to the Executors or Administrators of the Party that had the Estate thereof by Virtue of the Grant, and shall be Affets in their Hands, and shall be subject to the Payment of Legacies, and be distributable, after Payment of Debts, in the same Manner as other Estates of Intestate Persons are distributable by the Laws of this Province.

Eng. Stat. 29.
Car. 2. c. 3. Sect. 12.
Estate *pur auter vie*
deviseable by Will,

If no Devise, to be chargeable in the hands of the Heir; as affets by Descent,

if no Special Occupant, to go to Executors, and to be distributable, after payment of Debts, as Intestate Estates.

XII. *And be it further Enacted,* That the First Judge on the Bench in any of His Majesty's Courts, shall sign every Judgment without Fee, and set down the Day of the Month and Year of his so doing, upon the Paper or Docket which he shall sign; which Day of the Month and Year, shall be also entered upon the Margin of the Record, where the said Judgment shall be entered.

Eng. Stat. 29.
Car. 2. c. 3. Sect.
14. 15.
The first Judge on the Bench to Sign every Judgment without Fee.

XIII. And

which shall be deemed a Judgment from such Time only.

XIII. And such Judgments as against Purchasers *bonâ fide* for valuable Considerations of Lands, to be charged thereby shall, in Construction of Law, be Judgments only from such Times as they shall be so signed, and shall not relate to the First Day of the Term whereof they are entered, or to the Day of the Return of the Original or filing the Bail.

No Satisfaction of any Judgment to be entered on Record by motion of an Attorney, unless his Warrant be proved by Affidavit of One Witness.

XIV. *And be it also Enacted*, That no Satisfaction shall, at any Time, be entered on the Record of any Judgment, upon the Motion of any Attorney, except the said Attorney shall prove his Warrant for acknowledging such Satisfaction, by Affidavit of One credible Witness in Writing, to be filed in the Office where such Judgment is entered.

Eng. Stat. 29. Car. 2. c. 3. Sect. 16. No Execution to bind the Property of Goods, but from the Time that it is delivered to the Sheriff.

XV. *And be it further Enacted*, That no Writ of Execution shall bind the Property of the Goods of the Party, against whom such Writ of Execution is sued forth, but from the Time such Writ shall be delivered to the Sheriff, Undersheriff or Coroner, to be executed; and the Sheriff, Undersheriff and Coroners shall, upon the Receipt of any such Writ, without Fee, indorse thereon the Day of the Month and Year whereon they received the same.

Construction of Stat. of Frauds respecting Wills of Real Estates, vide Equity Cases abridged, Tit. Wills and Testaments, Let. A.

The Clauses of the Eng. Stat. 29. Car. 2. c. 3. Sect. 5, 6. & 19—25. are enacted by Prov. Law 32. Geo. 2. c. 11. relating to Wills & Testaments &c.

C A P. XIX.

An Act to provide for the Support of *Bastard Children*, and the Punishment of the Mother and reputed Father.

Eng. Stat. 18 Eliz. c. 3. 7. Ja. 1. c. 4. Sect. 7. 13 & 14. Car. 2. c. 12. Sect. 19. 6. Geo. 2. c. 31.

If a Woman be with Child of a Bastard likely to be chargeable to any Place within the Province, the Father to be bound by one Justice, with Sureties to indemnify such Place,



Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Twenty Fifth Day of March Instant, if any Woman shall be delivered of a Bastard Child, which shall be chargeable or likely to be chargeable to the Province, she having declared to the Midwife, or other Persons assisting her at the Time of Delivery, who the Father of such Child was, and shall have at some Time before, declared herself to be with Child, and that such Child is likely to be born a Bastard, and to be chargeable to any Place within the Province, and shall in either of such Cases, upon Examination to be taken in Writing upon Oath, before One Justice of the Peace near where such Place shall lie, charge any Person with having gotten her with Child; it shall and may be lawful for such Justice, upon Application made to him by the

the Overseers of the Poor of such Place, or any One of them, or some substantial Householder of such Place, to issue out his Warrant to apprehend such Person so charged as aforesaid; and to bring him before him or some other of His Majesty's Justices, and to commit such Person to Gaol or the House of Correction, unless he give Security to indemnify such Place from the supporting or maintaining such Child or Children, and shall enter into Recognizance with sufficient Security for his Appearance at next Quarter Sessions, where he shall be continued on Recognizance till the Woman is delivered of such Child or Children. *Provided*, that if such Woman shall die or be married before she be delivered, or Miscarry of such Child or Children, or shall appear not to have been with Child at the Time of her Examination, such Person shall be discharged from his Recognizance at the next Sessions, or immediately released out of Custody, if committed.

and to appear at next Sessions, and to be continued till the Woman be delivered.

II. *And be it further Enacted*, That any Two Justices of the Peace near the Place where any Bastard Child shall be born, upon Complaint made by the Overseers of the Poor or any One of them, or of some substantial Householder, upon due Examination of the Cause and Circumstances, shall and may by their Discretion make an Order for the Relief of such Place, or Children, and for keeping such Bastard Child, and that said Mother or reputed Father of such Child or Children, shall find sufficient Security that such Child shall not become burthenome or chargeable to any Place in said Province, or pay the Sum of Twenty Pounds, which shall be paid into the Hands of the Overseers of the Poor for the Support of such Child or Children, or other Town Uses. And if, after the said Order made by said Justices, and by them subscribed and directed to the Overseers of the Poor, any of said Persons, *viz.* Either the Father or Mother, upon Notice thereof, shall not for his or her Part observe and perform said Order, then such Party, making Default, to be committed to Gaol or House of Correction for the Space of Six Months, except he or they shall give sufficient Security to perform said Order, or else personally appear at the next Quarter Sessions and abide by such Order as shall be made at said Sessions in that behalf, and if no Order shall be made at said Sessions, then to abide by the first Order.

Order to be made by Two Justices for the Relief of any Place, and that the Mother or reputed Father shall find Security that such Child shall not be burthenome, or pay £20.

on Failure to be committed for Six Months.

III. *And it is hereby further Enacted*, That in Case any Woman shall accuse or charge any Man with having gotten her with Child, though the Woman be not with Child, or that the Child be not really his, but appears to be only a Contrivance to defame the Person, or cheat him of his Money, that in such Case the said Woman shall be sent to the House of Correction, there to be whipped and remain for the Space of Six Months.

Woman accusing a Man wrongfully, to be sent to the House of Correction for Six Months.

IV. *Provided nevertbeless*, That if any Person shall think himself wrongfully charged, or if the Person charging him be a Woman of

Appeal to the next Sessions, upon Security given.

of ill Fame or a Common Whore, in such Cafes, upon giving Security to abide the Judgment of the Court, he may appeal from the Order of the Justices, to the next Sessions, when the whole Cause may be heard and tried by such Court, on the Verdict of a Jury.

1. Stra. 503. 612. 2 Stra. 716, 1050.

C A P. XX.

An Act for punishing Criminal Offenders.

Blasphemy.



E. it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That if any Person shall presume willfully to blaspheme the Holy Name of GOD, *Father, Son, or Holy Ghost,* or to deny, curse or reproach the true GOD, his Creation or Government of the World, or to deny, curse, or reproach the Holy Word of GOD, *that is,* the Canonical Scriptures in the Books of the Old and New Testament; every such Offender, being thereof duly convicted at the Court of Assize and General Gaol Delivery, or Sessions of the Peace, shall be set twice in the Pillory, for the Space of One Hour each Time, or be imprisoned for three Months, at the Discretion of the Court where such Offender shall be convicted (a).

Prophanely swearing or Curfing.
Eng. Stat. 19 Geo. 2.
c. 21.

II. *And be it further Enacted,* That if any Person shall prophanely swear or curse in the Presence or Hearing of any Justice of the Peace, or shall be thereof convicted by the Oath of One credible Witness, or by the Confession of the Party, before any Justice of the Peace, every Person offending shall forfeit, to the Use of the Poor of the Town where such Offence shall be committed, for the First Offence Two Shillings, and in Case such Person shall, after Conviction, offend a second Time, such Person shall forfeit double, and if a third Time, Treble the Sum to be paid for the first Offence; and upon Neglect of Payment, the Justice shall issue his Warrant to a Constable, commanding him to levy the said Forfeitures by Distress and Sale of the Goods of such Offender, and the Forfeiture, when paid or levied, shall be delivered to the Overseers of the Poor for the Use of the Poor as aforesaid; and in Case no Distress can be had, such Offender being above the Age of Sixteen Years, shall by Warrant of the Justice, be set in the publick Stocks for One Hour for every single Offence, and for any Number of Offences whereof he shall be convicted at One Time, Two Hours; and if

(a) Vide the Disabilities and Punishment for Blasphemy, by Eng. Stat. 9, & 10. Will. 3. c. 32. 1. Strange 416. Rex versus Hall. 2. Strange 834. Rex versus Woolston. Fitz Gibbons Reports S. C. 1. Vent. 293. Taylor's Cafe. 3. Kcb. 607. 621.

the Party offending be under the Age of Sixteen Years, and shall not pay the Forfeitures, he shall, by Warrant of the Justice, be whipped by the Constable, or by the Parent, Guardian, or Master of such Offender, in Presence of the Constable; *Provided always*, that every such Offence be proved or prosecuted within Ten Days after the Offence committed.

III. *And be it further Enacted*, That every Person who shall by View of any Justice of the Peace, or Confession of the Party, or Oath of One credible Witness before any such Justice, be convicted of Drunkenness, shall forfeit and pay for the Use of the Poor of the Town where such Offence is committed, the Sum of Five Shillings, to be levied, on Neglect or Refusal to pay the same, by Warrant of Distress and Sale of the Offender's Goods, and the said Sum, when paid or levied, shall be delivered to the Overseers of the Poor for the Use of the Poor as aforesaid, and for Want of such Distress, such Offender shall be set in the Stocks for any Time not exceeding three Hours, at the Discretion of the Justice or Justices before whom such Offender shall be convicted: And upon a second Conviction of Drunkenness in like Manner as aforesaid, every such Offender shall, over and above the Penalty aforesaid, be bound with two Sureties, in the Sum of Ten Pounds, with Condition for the good Behaviour, and for Want of such Sureties, such Offender shall be committed to the common Gaol until he shall find the same; *Provided*, That every such Offence be proved or prosecuted within Ten Days after the Offence committed.

Drunkenness
Eng. Stat. 4. Ju. 1.
c. 5. & 21. Ja. 1.
c. 7.

IV. *And be it further Enacted*, That the Justices of the Peace shall register all the Convictions made before them, of such profane Swearing, Cursing, or Drunkenness, and shall certify the same to the next Quarter Sessions, to be kept upon Record by the Clerks of the Peace, to be seen without Fee.

Justice to register
Convictions.

V. *And be it also Enacted*, That if any Action shall be brought against any Justice of the Peace or Officer for any Proceedings on the said Offences in Pursuance of this Act, the Defendant may plead the General Issue, and give the special Matter in Evidence, and if the Plaintiff shall be Non suit, or a Verdict shall be found for the Defendant, such Defendant shall have Treble Costs.

Justice, if sued, to
plead the General
Issue.

VI. *And be it further Enacted*, That every Person duly convicted at the Court of General Gaol Delivery, or Quarter Sessions, of counterfeiting (b) or impairing (c), diminishing or imbasing any

Counterfeiting, &c.
Foreign Coin cur-
rent in the Pro-
vince.

(b) By Eng. Stat. 1. Mar. Stat. 2. c. 6. Sect. 2. Counterfeiting foreign Coin current in England is adjudged Treason. By Eng. Stat. 14 Eliz. c. 3. Counterfeiting foreign Coin not current, *Misprison of Treason*.

(c) By Eng. Stat. 18 Eliz. c. 1. Sect. 1. Impairing, &c. Foreign Coin current by Proclamation in the Realm or *Queen's Dominions Treason*.

Foreign

Foreign Coins, current in the Province, by washing, clipping, (*d*) rounding, filing, or scaling of the same, or of uttering (*e*) any counterfeited or impaired Coin, knowing the same to be so counterfeited or impaired; shall be set in the Pillory, by the Space of One whole Hour, and One of the Ears of such Offender shall be nailed thereto, and such Offender shall also be publickly whipped through the Streets of the Town where such Offence shall be committed, and shall pay all Charges of the Prosecution (*f*).

Eng. Stat. 6. & 7.
Will. 3. c. 17.

Sect. 4.

Buying Clippings,
&c.

VII. *And be it further Enacted*, That every Person convicted as aforesaid, of buying or receiving any Clippings, Sealings, or Filings of Money, shall forfeit the Sum of Twenty Pounds, one Moiety thereof for the Support of His Majesty's Government in this Province, and the other Moiety to him or them who shall inform and sue for the same, and also be imprisoned for the Space of Three Months.

Forgery.

Eng. Stat. 5. Eliz.
c. 14. 2. Stra. 901.
Rex versus Japhet
Crooke.

VIII. *And be it further Enacted*, That if any Person shall forge or counterfeit, or procure to be forged or counterfeit, or willingly assist in the forging or counterfeiting, any Deed or Writing sealed, or last Will or Testament, or shall publish or shew forth in Evidence, any such forged or counterfeit Deed, Writing sealed, or last Will or Testament, as true, knowing the same to be false; or if any Person shall forge or counterfeit, or procure to be forged or counterfeited, or willingly assist in the Forging or Counterfeiting, any Bond, Writing Obligatory, Bill of Exchange, Promissory Note for the Payment of Money, or any Indorsement or Assignment of any Bill of Exchange, or such Promissory Note for Payment of Money, or any Acquittance or Receipt either for Money or Goods, or any Discharge of any Action, Account, Debt, Demand, or any personal Thing, with Intention to defraud any Person, or shall utter or publish as true, any forged or counterfeited Bond, Writing Obligatory, Bill of Exchange, or such Promissory Note for the Payment of Money, or such Acquittance, Receipt, or Discharge, with Intention to defraud any Person, knowing the same to be forged or counterfeited; every such Person, being thereof convicted at the Court of Assize and General Gaol Delivery, or Sessions of the Peace, shall be set in the Pillory, and there have One of his Ears cut off, and shall also suffer Imprisonment for the Space of One Year without Bail or Mainprize; and the Party grie-

Pillory, &c.

(*a*) Clipping, &c. English Coin or foreign Coin current in England, or the *Queen's Dominions*, is declared to be *Treason* by Eng. Stat. 5. Eliz. c. 11. Sect. 2.

(*e*) Evidence respecting Utterance of counterfeit Money, Vide Eng. Stat. 15. Geo. 2. c. 28. & 8. & 9. Will. 3. c. 26. Sect. 6.

(*f*) No Foreign Coin is now current that is legitimated, and most probably none will, so that on the English Statutes there can be no Prosecutions, till some Species of Foreign Coin is legitimated. *Judge Foster's first Disc. of H. Treason, c. 3. Sect. 5.*

ved

ved shall recover his double Costs and Damages, to be assessed in the Court where such Conviction shall be: *Provided always, and it is hereby Enacted*, That this Act nor any Thing herein contained, shall not extend to charge any Judge of Probate, or any Register, for any of the Offences aforesaid, for putting their Seal of Office to any Will to be exhibited to them, not knowing the same to be forged or counterfeited, or for Writing of the said Will or Probate of the same, nor to any other Person or Persons that shall shew forth or give in Evidence, any false or forged Writing for true or good, being not Party or privy to the Forging of the same, not knowing the same to be false or forged (g).

Not to extend to Judge of Probate, &c.

IX. *And be it further Enacted*, That if any Person or Persons, either by the Subornation, unlawful Procurement, sinister Persuasion or Means of any other, or by their own Act, Consent, or Agreement, shall wilfully or corruptly commit Perjury, by his, her, or their Deposition in any Court of Record, or being examined *ad perpetuam rei memoriam*, every Person so offending, and being thereof duly convicted, shall forfeit Twenty Pounds, the one Moiety thereof for the Support of this His Majesty's Government, and the other Moiety to such Person or Persons as shall be grieved by Reason of the Offence, that shall sue for the same by any Action of Debt, Bill, Plaint, or Information in any Court of Record; and shall also be imprisoned by the Space of Six Months without Bail or Mainprize. And the Oath of such Person or Persons shall not be received in any Court of Record, until such Time as the Judgment given against the said Person or Persons shall be reversed, and upon every such Reversal, the Parties aggrieved shall recover their Damages against such Person or Persons, as did procure the said Judgment so reversed, to be given against them or any of them, by his, her, or their Action upon the Case, according to the Course of the Common Law (h).

Perjury.
Eng. Stat. 5. Eliz. c. 9. 2. Stra. 921.
Rev. versus Philips.

Penalty £ 20.

and six Months Imprisonment.

X. And if the said Offender or Offenders shall not have any Goods or Chattels to the Value of Twenty Pounds, then he, she or they shall be set on the Pillory, by the Space of one whole Hour, and both his Ears shall be nailed to the Pillory, and from thenceforth such Offender shall be discredited and disabled for ever to be sworn in any Court of Record, until such Time as the Judgment shall be reversed.

or Pillory.

XI. *And be it further Enacted*, That every Person and Persons who shall unlawfully and corruptly procure any Witness or Witnesses, by Letters, Rewards, Promises, or by any other sinister and unlawful Labour or Means whatsoever, to commit any wilful

Procuring Witnesses to commit wilful Perjury.
Eng. Stat. 5. Eliz. c. 9.

(g) 1 Hawk. P. C. c. 70. Sect. 12.—27.

(h). 1. Hawk. P. C. c. 69. Sect. 17.—23.

and corrupt Perjury in any Matter or Cause whatsoever, depending or that shall depend in Suit and Variance by any Writ, Action, Bill, Complaint or Information in any Court of Record, or to testify *in perpetuam rei memoriam*; every such Offender, being thereof duly convicted, shall suffer the like Pains, Penalties, Forfeitures, and Disabilities in all Respects as are hereby directed for the like Offences, and the said Forfeiture to be recovered and applied in Manner as aforesaid

Judges empowered to inquire of such Offences.

XII. *And be it further Enacted*, That as well the Judges of the said Courts, where such Perjury shall be committed, as also the Justices of Assize and Gaol Delivery, and the Justices of the Peace at their Quarter Sessions, shall have Power to inquire of all the said Offences of wilful Perjury, and Subornation of Perjury, and thereupon to give Judgment, award Process and Execution of the same.

Authority of Judges before this Act, not to be restrained,

XIII. *Provided* That the Authority of any Judge, having absolute Power to punish Perjury before the making this Act, shall not be restrained, but that they may proceed in the Punishment of the same, in such wise as they might have and used to do, so that they set not upon such Offenders, less Punishment than is before directed.

False Tokens.
Eng. Stat. 33.
Hen. 8. c. 1. 30. Geo.
2. c. 24.

XIV. *And be it further Enacted*, That if any Person or Persons shall falsely and deceitfully obtain or get into his, her, or their Hands or Possession, any Money, Goods, Chattels, Jewels or other Things of any other Person or Persons, by Colour and Means of any privy false Token, or counterfeit Letter made in another Man's Name, to a special Friend or Acquaintance, for the obtaining of Money, Goods, Chattels, Jewels or other Things, and shall be thereof convicted in any Court of Oyer and Terminer, Court of Assize and General Gaol Delivery, or Quarter Sessions of the Peace, every such Offender shall suffer such Punishment by Imprisonment, setting upon the Pillory, publick Whipping, or hard Labour in the House of Correction, as such Court where the Offender shall be convicted, shall in their Discretion adjudge (*i*).

Punishment of Persons above 14 Years of Age, making or publishing any Lye, &c.


XV. *And be it further Enacted*, That if any Person or Persons, above the Age of Fourteen Years, shall be convicted by Confession, or by the Oath of one credible Witness, before any Justice of the Peace, of making or publishing any Lye, Libel, or scandalous Report, tending to the Defamation or Damage of any Person, or shall, with Intent to abuse and deceive others, invent or spread any false News; every such Offender shall be fined at the Discretion of such Justice, in any Sum, not exceeding Five Pounds, to be paid to the Overseers of the Poor, for the Use of the Poor of the Town where the Offence shall be committed, and shall be bound

(*i*) 3 Inst. 123. Cro. Car. 564. 2^o. Whether this Offence is fineable, 1. Hawk. P. C. c. 71. Sect. 6.

in a Recognizance, with two Sureties, for the good Behaviour, during such Time as the Justice shall think meet, and upon the Neglect or Refusal of such Offender to pay the Fine, such Justice may issue his Warrant for levying the same by Distress and Sale of the Offender's Goods; and in Default of such Distress, may either commit the Offender for one Month, or may order such Offender to be set in the Stocks for three Hours, or to be whipped, at the Discretion of the Justice, upon the Nature and Circumstances of the Offence, and such Offender may be committed until the Sureties hereby required, shall be found for the good Behaviour. And the Party or Parties injured shall and may be at Liberty, notwithstanding such Fine or Punishment, to proceed against such Offender or Offenders by Suit in any Court of Record, for any Special Damage sustained by Reason of such Defamation.

C A P. XXI.

An Act relating to the Assize of *Bread*, and for ascertaining the *Standard* of Weights and Measures.

 *HEREAS* great Frauds are daily committed in this Province, because no Standard for Weights and Measures, or Assize of Bread, have hitherto been established; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That all Weights and Measures used in this Province, shall be according to the Standard of the *Exchequer* of England: And that the Treasurer of the Province, as soon as may be, procure a Sett of Measures, Long, Liquid, and Dry, and a Sett of Brass Weights and Scales, and that until such Weights and Measures shall arrive, the Weights at His Majesty's Ordnance Store shall be the Standard. And the Clerks of the Market for each Town, shall procure therefrom, a Sett of Weights according to such Standard, which shall remain with them as Assay Weights, and shall be marked with the Letters **GII: R:**

Preamble.

Weights and Measures to be according to the Standard of England.

Clerks of the Market to procure a Sett of Weights from the Ordnance Store, to remain as Assay Weights.

II. *And be it further Enacted*, That every Inhabitant of each Town respectively, making Use of Weights and Measures in the Sale of any Commodity, shall, in One Week after publick Notice given by such Clerks respectively, bring or cause to be brought, their Weights and Measures to be assayed, for each of which Assay he shall have Two Pence for his Trouble and no more, and the said Clerk shall cause such Weights and Measures to be branded or stamped with the Initial Letter of the Town where such Assay shall be made. And whosoever shall thenceforward, sell or vend any Commodity by Weights or Measures not so branded or marked, shall

Persons selling by Weights and Measures not mark'd by the Clerk of the Market,

forfeit 20s.
Conviction before
One Justice.

shall forfeit for every such Offence Twenty Shillings, on due conviction thereof, before any One of His Majesty's Justices of the Peace for the County wherein the Offence shall be committed, to be levied by Warrant of Distress and Sale of the Offender's Goods.

Clerks of the Market to inspect Weights and Measures once in three Months.

III. *And for the more effectual preventing such Frauds, be it further Enacted,* That the said Clerks shall and are hereby empowered to inspect all Weights and Measures, and for that Purpose once in Three Months, or oftner if they see Cause, shall visit every Inhabitant selling publicly by Weights and Measures, and shall have full Power and Authority to seize all such, not stamped or branded as aforesaid, and may assay and mark and dispose of the same for their Use, as a Satisfaction for their Trouble therein; and if any Person shall hereafter be convicted of Selling by Weights and Measures less than the Standard hereby established, he shall forfeit the Sum of Ten Pounds, to be recovered by Bill, Complaint, or Information, in any of His Majesty's Courts of Record.

Selling by Weights and Measures less than the Standard, Penalty £10.

IV. *And for preventing Frauds in the Assize of Bread, be it Enacted,* That the Clerks of the Market be and are hereby empowered to visit every Bake House, or the House of any other Person selling Bread, and to seize all such as shall be found under the Weight and Assize, established by this Act as follows, viz.

Assize of Bread.

When the Price of fine Wheaten Flour is at or under Twelve Shillings the 112lb. avoirdupois

Avoirdupois

	Lb.	Oz.
<i>The Sixpenny Loaf of the same shall weigh</i> - - - - -	4.	0.
<i>When from Twelve to Fourteen Shillings inclusive</i> - - - - -	3.	8.
<i>From Fourteen to Sixteen inclusive</i> - - - - -	3.	0.
<i>From Sixteen to Eighteen inclusive</i> - - - - -	2.	12.
<i>And above Eighteen</i> - - - - -	2.	8.

Clerks to seize all Bread under the Assize.

V. *And that it shall and may be lawful for the said Clerks to stop, and examine the Bread that may be carried through the Streets, by any Person or Persons, either for immediate Sale, or the Supply of his or their Customers, and in like Manner to seize all such as shall be found under the Weight and Assize.*

Bakers to mark their Bread with the first Letters of their Names.

VI. *And be it further Enacted,* That every Baker within this Province, shall and are hereby required to mark his Bread with the first Letter of his Christian and Surname, which, upon Failure thereof, shall be seized, and such Bread, so seized, shall be forfeited, and delivered to the Overseers of the Poor of the Town where

where the Offence is committed, for the Benefit of the Poor or Prisoners.

Bread not marked to be forfeited.

VII. *Provided always*, That if any Person shall think himself aggrieved by such Seizure, he may apply for Redress to any of His Majesty's Justices of the Peace for the County, who is hereby empowered to determine the same, if Application be made within Twelve Hours after the Seizure be made.

Appeal to a Justice within 12 Hours.

VIII. *And be it further Enacted*, That if any Person making use of Weights and Measures, or selling Bread, shall refuse Admittance to any of the said Clerks, declaring the Intent of their coming to discharge the Duty of their Office, he shall for every such Refusal, forfeit the Sum of Twenty Shillings, to be recovered before any One of His Majesty's Justices of the Peace.

Refusing Admittance to Clerks, Penalty 20s.

Vide Additions to this Act. 33 Geo. 2. c. 6. 2 Sess. 4 Geo. 3. c. 5. 2 Sess. 6 Geo. 3. c. 5.

C A P. XXII.

An A C T declaring what shall be deemed a *Publication* of the *Province Laws*.

Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the publick Reading any Law of this Province, by the Provost Marshal or his Deputy, on the Parade of *Halifax*, after Notice by beat of Drum, shall be deemed a sufficient Publication thereof.

Reading the Laws on the Parade, a sufficient Publication.

II. *And all Laws*, already published in that Manner, are hereby declared to have been in Force accordingly, from the Time of such Publication.

All Laws so published, declared to have been in force accordingly.

C A P. XXIII.

An A C T for preventing Persons leaving the Province without a Pass.

HEREAS Injustice may be done to Creditors by Persons in their Debt privately leaving the Province, and great Inconveniences have likewise arisen, from Seamen in the Royal Navy and Soldiers being secretly conveyed away: For Preventing thereof, *Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted*, That all

Preamble.

Persons intending to leave the Province, to put up their Names at the Secretary's Office, 7 Days before they shall have a Pass.

Secretary refusing a Pass, forfeits £50.

all and every Person or Persons, intending to Leave this Province, shall put up their Names publickly at the Secretary's Office, for the Space of Seven Days, before they shall obtain any Pass, with the Day and Year when they put up their Names, and in Case said Person or Persons are not, within said Seven Days, underwrote in Manner as has been usual, that then and in such Case, it shall and may be lawful for the Secretary or his Deputy, and they are hereby required, to grant said Person a Pass, for which he shall receive One Shilling only: And in Case said Secretary or his Deputy shall refuse a Pass to any Person or Persons that have complied with the Rules prescribed by this Act, he or they shall forfeit the Sum of Fifty Pounds, to be recovered by Bill, Plaint or Information in any of His Majesty's Courts of Record in this Province, and for the Use of the Person grieved.

II. And be it further Enacted, That the Pass for Persons leaving this Province shall be in the following Words :

Form of the Pass.

“ Province of }
“ Nova Scotia } PERMIT to depart
“ this Province in the Master,
“ bound for he or they
“ having complied with the Act of this Province for
“ that Purpose.
“ Dated

persons underwriting another to file an Affidavit of the Debt due,

III. And be it further Enacted, That whosoever shall underwrite any Person or Persons, so having their Names set up as aforesaid, shall produce at the Secretary's Office an Affidavit made before One of His Majesty's Justices of the Peace, which Affidavit shall remain in the said Office, setting forth the Cause in Writing, if a Debt, the Sum or Sums of Money that is due or owing to him or them, to be ascertained as near as they possibly can, and by what Means it doth arise, whether by Bill, Bond, Judgment, Promise, Covenant, or Account. And when any Person so setting up their Names in the Secretary's Office as aforesaid, shall be underwrote by any Person in manner aforesaid, that then and in such Case, it shall be lawful for the Secretary or his Deputy, to take good and sufficient Security from the Person or Persons so underwritten, for the Sum or Sums that he or she is underwrote for; which Security shall be in the following Words :

for which Sum Security is to be taken by the Secretary.

Form of the Bond.

“ KNOW all Men by these Presents, That We
and of Halifax, are firmly bound unto
“ in the Sum of to the true Payment of which,
“ We bind ourselves, our Heirs and Assigns firmly by these Presents.
“ Witness our Hands and Seals this Day of ...

“ THE

“ THE Condition of the above Obligation is such, That whereas
 the above bound is underwrote by of
 Halifax aforesaid, for the Sum of Now if the said
 or they, their Heirs or Assigns will pay
 or cause to be paid to said the said Sum of
 or such Sum as shall legally, upon Trial, appear to be due to said
 then the above Obligation to be void, other-
 wise to remain in full Force and Virtue.”

For taking of which Bond the Secretary shall receive Two Shillings and Six Pence only. Secretary's Fee.

IV. *Provided always*, and it is the full Intention and Meaning of this Act, That the Persons so underwriting, file their Actions in the next Inferior Court, after Security be given for their Debts then due, otherwise the same being pleaded, shall be a sufficient Bar to their Action or Actions. Actions to be brought at the next Inferior Court.

V. *And be it further Enacted*, That any Person or Persons that have been underwrote as aforesaid, upon their giving Security as before directed, are hereby intituled to receive their Passes, in like Manner as if they had not been underwrote. And the Secretary or his Deputy are hereby impowered to deliver the said Bond so taken as aforesaid, to the Person or Persons that underwrote the Person so going away. And said Bond shall be good and valid against the Security for the Recovery of such Sum or Sums as the Person or Persons, to whom the said Bond is delivered, can make appear, upon Trial, was really due to him by the Person he underwrote, with the Costs thereon. Persons underwrote to have their Passes, on giving Security.
Bonds to be delivered to Creditors.

VI. *And be it further Enacted*, That in Case any Person intending to leave the Province before the Seven Days are expired, after Setting up his or her Name, may obtain their Passes from the Secretary or his Deputy, by giving sufficient Security and Entering into Bond as aforesaid, that said Security will pay all the Debts said Person going away has contracted in the Province; which Bond shall be good and valid against said Security. Security to be given for Payment of all Debts, by Persons intending to leave the Province before the 7 Days are expired.

VII. *And it is hereby further Enacted*, That in the Out Ports of this Province, Passes may be obtained from the Commanding Officer for the Time being, or from any other Person, whom the Governor or Commander in Chief shall appoint for that Purpose, who are hereby impowered to grant the same, in Manner as prescribed by this Act. Passes to be granted at the Out Ports, by Commanding Officers, &c.

VIII. *Provided always*, That nothing in this Act shall be construed to extend to the Restraining any Military Person or Persons Not to extend to Military Persons.

sons from immediately departing the Province, with a special Per-
mission under the Hand of the Commander in Chief of the Troops.

Persons groundless-
ly underwriting, li-
able to an Action.

IX. *And be it further Enacted by the Authority aforesaid,* That if upon Trial, it shall appear that the Cause for underwriting any Person or Persons, setting up their Names in the Secretary's Office to depart this Province, be vexatious and groundless, that then and in such Case, the Person so underwriting shall be liable to an Action of Damages, to be recovered as aforesaid.

Masters of Vessels
carrying any Person
from Halifax with-
out a Pass,

X. *And be it further Enacted,* That no Master of any Ship or Vessel, going from the Port of *Halifax*, shall carry away any Person whatsoever, without a Pass signed by the Secretary of this Province or his Deputy, (except the Crew or Seamen brought with him in such Vessel, at his last Arrival) nor shall leave the said Harbour without Permission in Writing from His Excellency the Governor, Lieutenant Governor, or Commander in Chief for the Time being of this His Majesty's Province; And the Master of any Ship or Vessel offending contrary to the Tenor of this Act, shall forfeit the Sum of Fifty Pounds, to the Use of this Government, and be liable to pay all Damages, to be recovered by Bill, Plaint, or Information in any of His Majesty's Courts of Record in this Province, to be levied by Sale of the Offender's Goods and Chattels, by Warrant under the Seal of said Court, and for want of such Goods and Chattels, the Person convicted to be committed to some of His Majesty's Gaols for the Space of Six Months.

forfeit £50. and
liable to all Da-
mages.

Vide an Addition to this Act, 6 Geo. 3. c. 4.

C A P. XXIV.

An A C T for *Limitation of Actions*, and for avoiding
Suits of Law.

*Be it Enacted by His Excellency the Governor, Council, and
B Assembly, and by the Authority of the same it is hereby Enacted,*
That all Actions or Suits, either in Law or Equity, at
any Time hereafter to be sued or brought, of or for any
Lands, Tenements or Hereditaments, within this Province, where-
unto any Person or Persons now hath or have any Title, or Cause
to have or pursue any such Actions or Suits, shall be sued and taken
within Twenty Years next after the End of this present Session of
the *General Assembly*; and after the said Twenty Years expired, no
Person or Persons, or any of their Heirs, shall have or maintain
any such Action or Suit, of or for any of the said Lands, Tene-
ments, or Hereditaments; and that all Actions or Suits, either in
Law or Equity, of or for any Lands, Tenements, or other Here-
ditaments,

Eng. Stat. 21. Ja. 1.
c. 16.

Actions for the Re-
covery of Lands,
&c. to be brought
within 20 Years.

2. Salk. 421, 422,
423.

ditaments whatsoever, at any Time hereafter to be sued or brought by Occasion or Means of any Title or Cause hereafter happening, shall be sued and be taken within Twenty Years, next after the Title and Cause of Action first descended or fallen, and at no Time after the said Twenty Years, and that no Person or Persons that now hath any Right or Title of Entry into any Lands, Tenements, or Hereditaments, now held from him or them, shall thereunto enter, but within Twenty Years next after the End of this present Session of the *General Assembly*, or within Twenty Years next after any other Title of Entry accrued.

II. *And* that no Person or Persons shall at any Time hereafter, make any Entry into any Lands, Tenements, or Hereditaments, but within Twenty Years next after his or their Right or Title, which shall hereafter first descend or accrue to the same, and in Default thereof, such Person so not entering, and their Heirs, shall be utterly excluded and disabled from such Entry after to be made.

Persons not entering within 20 Years, excluded.

III. *Provided nevertheless*, That if any Person or Persons that is or shall be intitled to such Actions or Suits, or that hath or shall have such Right or Title of Entry, be, or shall be at the Time of the said Right or Title first descended, accrued, come or fallen, within the Age of Twenty One Years, * Feme Covert, Non Compos Mentis, imprisoned, or beyond the Seas †, that then such Person and Persons, and his or their Heirs, shall or may, notwithstanding the said Twenty Years be expired, bring his Action or Suit, or make his Entry, as he might have done before this Act; so as such Person and Persons, or his or their Heirs, shall, within Ten Years next after his and their full Age, Discoverture, coming of sound Mind, Enlargement out of Prison, or coming into this Province, or Death, take Benefit of, and sue for the same, and at no Time after the said Ten Years.

Saving for Minors
&c. * 1. Lev. 31.
2. Sand. 121.
Abr. Eq. 304.
† Cro. Car.
245. 333.
1. Lev. 143.
2. Sulk. 40.
Eng. Stat. 24. 29
5. Ann. c. 16.

IV. *And be it further Enacted*, That all Actions of Trespafs *quare Clausum fregit*, all Actions of Trespafs, Detinue, Action of Trover, and Replevin for taking away of Goods and Cattle, all Actions of Account and upon the Case, (other than such Accounts as concern the Trade of Merchandize, between Merchant and Merchant (a), their Factors and Servants) all Actions of Debt, grounded upon any Lending or Contract without Specialty (b); all Actions of Debt for Ar-

Actions of Trespafs &c. to be commenced within Three Years, after the End of this Session, or Six Years after the Cause of such Action,

(a) Accounts open and current only, are within this Exception; but if stated and a Sum certain is agreed to be due to One of the Merchants, who neglects to bring his Action within the Time limited, he is barred by the Statute, 2. Saund. 124—127. 1 Lev. 287. 298. 1 Vent. 89. 1 Mod. 270. 2 Mod. 312. 1. Vern. 456. Nor does the Exception extend to any other than Actions of Account, Carth. 226. Nor to Bills of Exchange—which are barred by the Statute, Carth. 3. 226 unless the Drawee be absent beyond Seas, 2. Stra. 836.

(b) On Plea of *Solvit ad diem* to Bond of 20 Years standing and no Interest paid, tho' out of the Statute, yet Length of Time will be presumptive Proof of Payment. So in Chancery Oblige of a Bond of 20 Years standing was refused any Relief, 1. Chan. Rep. 78, 88, 106.

Q

rearrages

rearages of Rent (*c*), and all Actions of Assault, Menace, Battery (*d*), Wounding, and Imprisonment, or any of them which shall be sued or brought, at any Time after the End of this present Session of *General Assembly*, shall be commenced and sued, within the Time and Limitation hereafter expressed, and not after; (*that is to say*) The said Actions upon the Case (other than for Slander) (*e*), and the said Actions for Account, and the said Actions for Trespass, Debt, Detinue, and Replevin for Goods or Cattle, and the said Action of Trespass *Quare Clausum fregit*, within Three Years next after the End of this present Session of *General Assembly*, or within Six Years next after the Cause of such Action or Suits, and not after: And the said Actions of Trespass, of Assault, Battery, Wounding, Imprisonment, or any of them, within Six Months next after the End of the present Session of *General Assembly*, or within One Year next after the Cause of such Actions or Suit, and not after; and the said Action upon the Case for Words, within Three Months after the End of the present Session of *General Assembly*, or within Six Months next after the Words spoken, and not after.

Battery, &c. within Six Months, &c.

Words within Three Months, &c.

Any of said Actions, being reversed by Error or in Arrest of Judgment, may be commenced *de novo*, within One Year.

V *And be it further Enacted*, That if in any of the said Actions or Suits, Judgment be given for the Plaintiff, and the same be reversed by Error, or a Verdict pass for the Plaintiff, and upon Matter-alleged in Arrest of Judgment, the Judgment be given against the Plaintiff, that he take nothing by his Plaint, Writ, or Bill; or if any the said Actions shall be brought by Original, and the Defendant therein be outlawed, and shall after reverse the Outlawry; that in all such Cases the Party Plaintiff, his Heirs, Executors, or Administrators, as the Case may require, may commence a new Action or Suit from Time to Time; within One Year after such Judgment reversed, or such Judgment given against the Plaintiff, or Outlawry reversed, and not after.

In Actions of *Trespass quare Clausum fregit*, Defendant may plead a Disclaimer, &c.

VI. *And be it further Enacted*, That in all Actions of Trespass *quare Clausum fregit*, hereafter to be brought, wherein the Defendant or Defendants shall disclaim, in his or their Plea, to make any Title or Claim to the Land in which the Trespass is, by the Declaration, supposed to be done, and the Trespass be by Negligence or involuntary, the Defendant or Defendants shall be admitted to plead a Disclaimer, and that the Trespass was by Negligence or involuntary, and a Tender or Offer of sufficient Amends for such Trespass before the Action brought, whereupon, or upon some of them, the Plaintiff or Plaintiffs shall be enforced to

(*c*) Debt for Arrearages of Rent on Lease by Indenture is out of the Statute because the Indenture is equal to a Specialty, but Rent reserved on Parol Leases is barred, 2. Saund. 66.

(*d*) 5. Mod. 74. 1 Lev. 31. 2 Salk. 423.

(*e*) Slander of Title is not not barred, for the Slander intended is to the Person, Cro. Car. 141. Palm. 530. 1 Jon. 196.

join Issue, and if the said Issue be found for the Defendant or Defendants, or the Plaintiff or Plaintiffs shall be non suited, the Plaintiff or Plaintiffs shall be clearly barred from the said Action or Actions, and all other Suits concerning the same.

VII. *And be it further Enacted,* That in all Actions of Trespafs, Actions for Assault and Battery, and all Actions for slanderous Words, to be sued or prosecuted by any Person or Persons after the End of this present Session of the *General Assembly*, if the Jury, upon the Trial of the Issue in such Action, or the Jury that shall enquire of the Damages, do find or assess the Damages under Forty Shillings, then the Plaintiff or Plaintiffs in such Action, shall have and recover only so much Costs as the Damages so given or assessed, amount unto, without any further Increase of the same: And if more Costs in any such Action be awarded, the Judgment shall be void, and the Defendant acquitted from the same. *Provided,* That if the Judge at the Trial of any Action of Assault and Battery, or Action of Trespafs, shall certify under his Hand upon the Back of the Record, that the Assault was sufficiently proved, or that the Freehold and Title of the Land, mentioned in the Plaintiff's Declaration, was chiefly in Question, or that the Trespafs was voluntary and malicious, the Plaintiff, in such Case, shall recover his full Costs, though the Jury should find Damages to be under Forty Shillings. (*f*)

In Actions of Trespafs, &c. no more Costs than Damages to be given,

unless the Judge certify, &c.

VIII. *Provided nevertheless,* That if any Person or Persons that is or shall be intitled to any such Action of Trespafs, Detinue, Action of Trover, Replevin, Actions of Account, Actions of Debt, Actions of Trespafs for Assault, Menace, Battery, Wounding or Imprisonment, Actions upon the Case for Words, be or shall be at the Time of any such Cause of Action given or accrued, fallen or come within the Age of Twenty One Years, Feme Covert, Non Compos Mentis, imprisoned or beyond the Seas; That then such Person or Persons shall be at Liberty to bring the same Actions, so as they take the same within such Times as are before limited, after their coming to, or being of full Age, Discover, of sane Memory, at large, and returned from beyond the Seas, as by other Persons having no such Impediment, should be done.

Actions of Trespafs, &c. accruing to Minors, may be brought after their coming to full Age.

IX. *And be it further Enacted,* That if any Person or Persons, against whom there is or shall be any Cause of Suit or Action of Trespafs, Detinue, Actions of Trover or Replevin, for taking away any Goods or Cattle, or of Action of Account, or upon the Case, or of Debt, grounded upon any Lending or Contract without Specialty, of Debt for Arrearages of Rent, or Assault, Menace, Bat-

Actions of Trespafs, &c. may be brought against Persons beyond the Seas, after their Return.

(*f*) If the Action be of a mix'd Nature as for Words and Conspiracy or any other Wrongs, the Case is out of the Statute of Limitations, and Plaintiff shall have Costs as usual, Cro. Car. 141. 163. 307. 1 Salk. 206.

tery,

tery, Wounding, and Imprisonment, or any of them, be or shall be, at the Time of any such Cause of Suit or Action given or accrued, fallen or become, beyond the Seas, that then such Person or Persons who is or shall be intitled to any such Suit or Action, shall be at Liberty to bring the said Actions against such Person and Persons, after their Return from beyond the Seas, so as they take the same after their Return from beyond the Seas, within such Times as are respectively limited for the bringing of the same by this Act.

A Legacy is not within the Statute, 1. Vern. 256. Debt for an Escape is not barred, 1. Saund. 37. 1. Lev. 191. Debt on Award is out of the Statute, 1. Sid. 415. 1. Lev. 273.

In Equity, if Lands are subjected to Debts by Will or Deed, Debts barred by the Statute shall be paid, 1. Salk. 154. 2. Vern. 141.

If Debt is acknowledged and *Payment promised* after the Six Years, it brings the Debt out of the Statute 1. Salk. 28, 29. but 2. Vent. 151. bare owning the Debt is not sufficient.

If Debtor or his Executor after the Six Years, advertise in a News Paper that all Persons having Debts due, &c. shall be paid, this will revive a Debt due by Note, or a Book Debt, tho' barred by the Statute. Abr. Eq. 305. Andrews versus Brown.

A Trust is not within the Statutes of Limitation, Eq. Abr. March. 129. pa. 303.

The Statute of Limitations is not pleadable in the Court of Admiralty or Spiritual Court, 6. Mod. 25, 26. 2. Salk. 424.

In 2. Salk. 424. 6. Mod. 25. Doubted whether Statute of Limitations was a good Plea to a Suit in the Admiralty for Mariners Wages, being Property determinable at Common Law and merely indulged to the Admiralty Jurisdiction. But by Eng. Stat. 4 & 5. Ann. c. 16. it is enacted, "That all Actions in the Court of Admiralty for Seamen's Wages, shall be commenced and sued within Six Years next after the Cause of such Suits shall accrue, and not after."

Suing out an Original will prevent a barring by the Stat. Carth. 136. 2. Salk. 420. 3. Mod. 311.

C A P. XXV.

An Act to prevent unnecessary Firing off *Guns*, and other *Fire Arms*, in the Town and Suburbs of *Halifax*.

E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That if any Person or Persons, of what Age or Degree soever, from and after the Publication of this Act, shall unnecessarily fire out of any Gun, Fusée, Musket, Pistol, or other Fire Arm, in any of the Houses, Streets, Lanes, Wharves, Yards, or Gardens in the Town or Suburbs of *Halifax*, every Person so offending, upon Conviction thereof, upon the Oath of One or more credible Witness, before any one of His Majesty's Justices of the Peace, shall forfeit the Sum of Ten Shillings, to be levied by Warrant of Distress from such Justice, on the Offender's Goods and Chattels, and for Want of Goods or Chattels, such Offender

Persons firing any Guns, &c. in the Town of Halifax

forfeit 10s.

Maliciously shooting at any Person in any Dwelling House, &c. is by Prov. Act, 32 Geo. 2. c. 13. Sect. 21. Felony without Clergy.

ender shall be committed to Gaol for the Space of Twenty Four Hours.

II. *Provided* that no Prosecution for Breach of this Act shall be admitted, unless Complaint be made thereof within Twelve Hours, at least, after the Offence committed.

Prosecution in Twelve Hours.

III. All Forfeitures arising by Virtue of this Act, shall be One half to him or her who will prosecute for the same, and the other to the Use of this His Majesty's Government.

One Half to the Prosecutor, the other to the Government.

C A P. XXVI.

An A C T directing the *Guardianship* of *Minors*.

E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Publication hereof, where any Person shall have Children under the Age of Twenty One Years, and not married at the Time of his Death, it shall be lawful for the Father of such Children, whether born at the Time of the Decease of the Father, or at that Time *en Ventre sa mere*, or whether such Father be within the Age of Twenty One Years, or of full Age, by Deed executed, or by his last Will and Testament in Writing in the Presence of two credible Witneses, to dispose of the Custody and Tuition of such Children, for such Time as they shall respectively remain under the Age of Twenty One Years or any lesser Time, to any Persons in Possession or Remainder, other than Persons not Protestants: And such Disposition of the Custody of such Children shall be good, against all Persons claiming the Custody and Tuition of such Children; and such Person, to whom the Custody of such Children shall be disposed or devised, may maintain an Action of Ravishment of Ward, or Trespass, against any Person who shall wrongfully take away or detain such Child, and shall recover Damages in the said Action, for the Use of such Children(a),

Eng. Stat. 12. Car. 2. c. 24. Father, at his Death, may dispose of the Custody of his Children, being Minors.

to any Persons other than Persons not Protestants.

Who may have Action against Persons wrongfully detaining them.

II. *And be it further Enacted*, That any Persons, to whom the Custody of such Children shall be so disposed or devised, may take into their Custody, to the Use of such Children, the Profits of all Lands, Tenements, or Hereditaments, and also the Management of the Goods and Personal Estate of such Children, till their respective Age of Twenty One Years, or any lesser Time, according to such

Guardians may take Possession of Lands, &c. for the use of such Minors.

(a) For the Construction of the Eng. Stat. 12. Car. 2. c. 24, as to the Trust and Powers of Testamentary Guardians, and in what Cases their Authority may be revoked, and other Guardians appointed, or Security required from Testamentary Guardians, Vide Vaughan 177-187. Bedell versus Constable. Abr. Eq. 260, 261.

Disposition, and may bring such Actions in Relation thereto, as such Children themselves might do if arrived at full Age (b).

The Governor to dispose of the Custody of Children of Persons dying not Protestants.

III. *And be it further Enacted*, That whensoever any Person, not being a Protestant, shall die seized of any such Estate in Lands, Tenements, or Hereditaments, for which his Heirs should be in Ward, his Heirs being under the Age of Twenty One Years at the Time of the Death of his Ancestor, it shall be lawful for the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, after due Proof to him of the Death of such Person not being a Protestant, and of his Heir being so under Age, to dispose of the Custody and Tuition of such Heirs, for such Time as they shall remain under the Age of Twenty One Years, or any lesser Time, to any Persons next of Kin to the Heir, being a Protestant, if they shall apply for the same; or in Default thereof to any other Person being a Protestant as aforesaid.

The Governor, &c. to allow of Guardians chosen by Minors, &c.

2 Inst. 14. 4. Co. 126. Beverley's Case. Staundfort's Prerog. 37.

IV. *And be it further Enacted*, That the Governor, Lieutenant Governor, or Commander in Chief for the Time being, when as so often as there shall be Occasion, be and is hereby empowered allow of Guardians, that shall be chosen by Minors of the Age Fourteen Years, and to appoint Guardians for such as shall within that Age, taking sufficient Securities of all such Guardian for the faithful Discharge of the Trust, as hereinafter directed, as to account either to the Governor, Lieutenant Governor, or Commander in Chief, or Minor, when such Minor shall arrive at full Age, or at such other Time as the said Governor, Lieutenant Governor, or Commander in Chief, upon Complaint to him made shall see Cause.

Guardians to enter into Recognizance with Sureties, for educating Minors in the Protestant Religion, &c.

V. *And be it further Enacted*, That all such Persons to whom the Tuition and Custody of such Heirs shall be committed, shall first enter into Recognizance, to the Use of the said Heir, with good Sureties, before the said Governor, Lieutenant Governor, or Commander in Chief, with Condition for the Educating the said Heir in the Protestant Religion, and for the Management and Disposal of the Estates of such Heirs, to their Use and best Advantage, and for the rendering a just Account of the Profits of such Estates to the said Governor, Lieutenant Governor, or Commander in Chief, when thereto required, or to such Heirs when they shall come of full Age, and for the not committing any Waste thereupon: And such Disposition of the Custody of such Heirs shall be good against all Persons claiming the Custody or Tuition of such Heirs; and such Persons to whom the Custody of such Heirs shall be disposed as aforesaid, may maintain an Action of Ravishment of Ward or Trespass.

(b) Guardians may make Leases of Minor's Lands, *Vide Co. Lit. 88. Vaugh. 18. L. Sca. 123, 124. Bro. Tit Gard. 70. Tit. Gardian 19. 2. Ro. Ab. 41. Cro. Ja. 55, 56* and such Leases are voidable only by the Infant but not void. 2. Ro. Ab. 256. Guardian may make Partition of Lands and it shall bind the Infant, if the Partition be equal.

pafs, against any Perfons who fhall wrongfully take away or detain fuch Heirs, for the Recovery of fuch Heirs, and fhall recover Damages in the faid Aftion, for the Ufe of fuch Heirs.

VI. *And be it further Enacted*, That fuch Perfon, to whom the Custody of fuch Heirs fhall be fo difpofed, may take into their Custody, to the Ufe of fuch Heirs, the Profits of all Lands, or Tenements, and alfo the Management of the Goods and Personal Eftate of fuch Heirs, till their refpective Age of Twenty One Years, or any leffer Time, according to fuch Difpofition, and may bring fuch Aftions in Relation thereunto as fuch Heirs might do, if arrived at full Age.

and may take in their Custody the Profits of all Lands &c. of fuch Minors.

VII. *And be it further Enacted*, That if fuch Perfon to whom fuch Grant fhall be made of the Custody of fuch Children, fhall die before he hath yielded an Account unto the faid Heirs, of the Profits of fuch Lands or Tenements, and the Management of fuch Goods and Chattels, deducting all neceffary and juft Charges, the Heirs, Executors, or Administrators of fuch Guardian, fhall be liable, and yield a full Account unto the faid Heir, his Executors and Administrators, of fuch Profits, Goods, and Chattels, Real and Personal, fo received by the Guardian, for the Benefit of the faid Heirs, deducting all neceffary and juft Charges as aforefaid, fo far as they fhall have Affets from the faid Guardian, or in his Right at the Time of Demand of Satisfaction for the fame; and if the faid Children fhall die before they fhall attain to their Age of Twenty One Years, it fhall be lawful for the Executors or Administrators of fuch Children to call the Perfons fo trusted for the Benefit of them, and the Heirs, Executors, or Administrators, to an Account for the fame(c).

If the Guardian die before he hath accounted for fuch Profits, his Heirs, &c. liable to account with the Heir.

VIII. *Provided always*, That this Aft fhall not extend to difcharge any Apprentice from his Apprenticeship, or fuch poor Children, as may hereafter be bound out by the Overfeers of the Poor, or fuch Children as may hereafter be found proper Objects of their Care, as is provided for by Law:

This Aft not extend to difcharge Apprentices, &c.

IX. *And forasmuch as it often happens, that Children are not born till after the Death of their Fathers, and alfo have no Provision made for them in their Wills, Be it therefore further Enacted by the Authority aforefaid*, That as often as any Child fhall happen to be born after the Death of the Father, without having any Provision made in his Will, every fuch Posthumous Child fhall have Right and Intereft in the Eftate of his or her Father in like Manner as if he had died Intestate(d), and the fame fhall accordingly be affigned and fet out

Provision for Posthumous Children.

(c) For what Acts Guardians are accountable, vide 2. Inf. 305, 306, 413. Bro'. Tit. Diffesin. 95. Co. Lit. 57. b. 271. a. 2. Inf. 134. 1. Ro. Abr. 731.

(d) By Eng. Stat. 10. & 11. Will. 3. c. 16. Sect. 1. Posthumous Children may take Contingent Remainders, as if born in the Life-time of the Father, altho' no Eftate be limited, in Settlements, to preferve Contingent Remainders until the Children are born.

as the Law directs for the Distribution of the Estates of the Intestates.

C A P. XXVII.

An ACT for confirming the past Proceedings of the Courts of Judicature, and for regulating the further Proceedings of the same.

Times established
for holding the
Supreme Court, and

E it Enacted by the Governor, Council and Assembly, and by
B the Authority of the same it is hereby Enacted, That His Majesty's Supreme Court, Court of Affize, and General Gaol Delivery, shall be held and kept at the usual Times and Places, (*that is to say*) on the last Tuesday in the Month of *October*, and on the last Tuesday in the Month of *April*, in every Year, in the Town of *Halifax*; and that the Court of General Sessions of the Peace shall be held quarterly as usual in every Year, in the said Town, *that is to say*, on every First Tuesday in the Months of *December, March, June and September*; and that the Inferior Court of Common Pleas, shall be held as usual on such First Tuesday in the said Months of *December, March, June and September*.

the Inferior Court
of Common Pleas.

Former Proceedings
confirmed.

II. *And be it further Enacted*, That all Rules and Orders, Proceedings, Pleadings, Sentences, Verdicts and Judgments, in the said Courts respectively, and all Executions awarded thereon, shall be, and are hereby ratified and confirmed. And all Proceedings and Judgments heretofore had and made, before any Two Justices, or One Justice, are hereby ratified and confirmed.

The remaining Part of this Act was temporary and is expired.

At

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Second Day of *October*, Anno Domini 1758, and in the Thirty Second Year of the Reign of our Sovereign Lord GEORGE the Second of *Great Britain, France, and Ireland*, King, Defender of the Faith, &c. and there continued by Prorogation until the *First* Day of *August*, Anno Domini 1759, and in the Thirty Third Year of His said Majesty's Reign; being the Second Session of the First *General Assembly* convened in the said Province.

C A P. I.

An ACT for regulating and maintaining an *House of Correction* or *Work House* within the Town of *Halifax*, and for binding out *Poor Children*.

~~WHEREAS~~ *HEREAS* by an Act of the General Assembly of this Province, intituled, An Act for erecting an House of Correction or Work House within the Town of *Halifax*, made and passed at their Session begun and holden at *Halifax* the Second Day of *October*, One Thousand Seven Hundred and Fifty Eight, the Sum of Five Hundred Pounds of the Monies then in the Treasury of the Province, collected for the Duties on Spirituous Liquors, was appropriated for erecting an House of Correction or Work House within the Town of *Halifax*: Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the Overseers of the Poor of the Town of *Halifax* be, and accordingly they hereby are authorized and impowered, when and so soon as the said House of Correction shall be built and finished, to agree with some discreet and fit Persons to be the Master and Keeper, and needful Assistants for the Care of the same; and to provide, as there shall be Occasion, suitable Materials, Tools, and Implements, necessary and convenient for keeping to work such Persons as may be committed to the said House; and generally, to inspect and direct the Affairs of the said House; and

Preamble,

Overseers of the
Poor to
Keeper, &c. of the
Workhouse,

and to make Rules
and Orders
Government thereof
of.

from Time to Time, to make such Rules and Orders as they shall judge best for the good Government thereof.

II. *And be it further Enacted,* That it shall and may be lawful for the Justices of the Peace in their General Sessions, or for any one Justice of the Peace out of Court, to send and commit to the said House of Correction, to be kept, governed, and punished according to the Rules and Orders thereof, all disorderly and idle Persons, and such who shall be found begging, or practising any unlawful Games, or pretending to Fortune telling, common Drunkards, Persons of lewd Behaviour, Vagabonds, Runaways, stubborn Servants and Children, and Persons who notoriously mispend their Time to the Neglect and Prejudice of their own or their Family's Support; upon due Conviction of any of the said Offences or Disorders.

III. *And be it further Enacted,* That the Master or Keeper of the said House of Correction, shall have Power and Authority to set all such Persons as shall be duly sent or committed to his Custody, to work and labour, if they be able, for such Time as they shall continue and remain in the said House; and to punish them by putting Fetters and Shackles upon them, if necessary, and by moderate Whipping, not exceeding Ten Stripes at once, which (unless the Warrant of Commitment shall otherwise direct) shall be inflicted at their first coming in, and from Time to Time afterwards, at his Discretion, in Case of their being stubborn or idle, and neglecting to perform such reasonable Tasks as shall be assigned them, and to abridge them of their Food, as the Case may require, until they be reduced to better Behaviour.

IV. *And be it further Enacted,* That no Person committed to the said House of Correction, shall be chargeable to the Government for any Allowance, either at going in or coming out, or during the Time of their Abode there: But shall be maintained out of their Earnings, and the Remainder thereof shall be accounted for, by the Master or Keeper of the said House; who shall keep an exact Account thereof, and render the same upon Oath, if required, to the said Overseers when demanded.

V. *And be it further Enacted,* That if any Person or Persons committed to the said House of Correction be Idiots, or Lunatic, or Sick and weak, and unable to work, they shall be taken Care of and relieved by the Master or Keeper of the said House, who shall keep an exact Account of what Charges he shall necessarily be at therein; to be rendered to the said Overseers, upon Oath, if demanded.

VI. *And be it further Enacted,* That the Pay of the said Master or Keeper of the said House of Correction, and the Charge for any Materials,

Justices to commit Offender.

Keeper to set Offenders to work;

and to punish them by Whipping.

Persons committed not to be chargeable to the Government.

Idiots &c. to be taken Care of and relieved by the keeper.

Pay of the Keeper &c. how to be defrayed.

Materials,

Materials, Tools, or Implements purchased as before mentioned, or arising by the Relief of Persons unable to work, and other necessary Expences of the said House, shall be defrayed out of the Surplus of the Earnings of the Labour done in the said House, if the same shall be sufficient therefor; or otherwise, shall be advanced out of Money in the Treasury of the Province, to be issued by Warrant under the Hand and Seal of the Governor or Commander in Chief for the Time being, and His Majesty's Council of this Province, to be reimbursed to the said Treasury out of such Profits as may afterwards arise as aforesaid.

VII. *And be it further Enacted,* That the said Overseers of the Poor shall take Order from Time to Time, by and with the Consent of Two or more Justices of the Peace for the County of *Halifax*, for setting to work the Children of all such, whose Parents shall not, by the said Overseers, or the greater Part of them, be thought able to keep or maintain them, or any poor Orphans; or by Indenture to bind any such Children or Orphans as aforesaid, to be Apprentices, where they shall see convenient, till such Man Child shall come to the Age of Twenty One Years, and such Woman Child to the Age of Eighteen Years, or the Time of her Marriage; the same to be as effectual to all Purposes as if such Child were of full Age, and by Indenture of Covenant had bound him or herself. *Provided always,* That one of the Conditions of said Indentures shall be, that if the said Master or Mistress of said Apprentice or other Person to whom said Indenture may be assigned, shall transport or carry said Apprentice out of this Province, to reside or dwell in any other Colony or Plantation, that then the said Indenture shall be void and of none Effect, and the said Apprentice shall thenceforth be discharged from any further Service to his said Master, Mistress or Assigns. *Provided also,* That the Children maintained and supported in the Orphan House at the Expence of the Crown, shall remain and be under the Direction of the Governor as heretofore, and bound out in such Manner as he shall order and direct.

Poor Children to be bound Apprentices by the Overseers of the Poor, with the consent of two Justices.

Proviso not to carry them out of the Province.

Children in the Orphan House excepted.

Vide an Addition to this Act, 3. Geo. 3. c. 8. 2. Sess.

C A P. II.

An ACT for regulating and maintaining a Light House on *Sambró* Island.

HEREAS by an Act of the General Assembly of this Province, intituled An Act for erecting a Light House at the Entrance of the Harbour of HALIFAX, made and passed at their Session begun and holden at Halifax, the Second Day of October, 1758, the Sum of One Thousand Pounds out of the Monies then in the Treasury of the Province, collected from the Duties on Spirituous Liquors, was appropriated for the erecting a Light House on the Island commonly

Preamble.

commonly

monly called and known by the Name of Sambrô Outer Island, at the Entrance of the Harbour of Halifax: And it was Enacted, that until such Light House should be erected the Commissioners appointed for carrying the said Act into Execution, should cause a Beacon and Light to be placed on the said Island for the Benefit of Vessels coming into the said Harbour, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the First Day of September next, there shall be paid by the Master of every Merchant Vessel coming into or going out of the Harbour of Halifax, at her going out of the said Harbour, (other than Coasters and Fishing Vessels, and such Transport or other Vessels employed in His Majesty's Service as shall, by their Charter Party, be exempted from paying Port Charges) a Duty of Six Pence per Ton Currency, for so many Tons as shall appear to the Satisfaction of the Receiver, or by the Oath of the Master, (which Oath the said Receiver is hereby authorized to administer) to be the real Burthen thereof.

II. *Provided*, That all Ships or Vessels wholly belonging to any Person, that is a Freeholder and Inhabitant in this Province, shall only pay Four Pence per Ton: The said Duty to be paid before clearing the said Vessel, to such Person or Persons as shall hereafter be appointed by His Excellency the Governor for that Purpose; who are hereby authorized to demand and receive the same, and upon Refusal of Payment, to sue for and recover the said Duty before Two of His Majesty's Justices of the Peace, or in Case the Sum shall not exceed Forty Shillings, before One Justice.

III. *And be it further Enacted*, That no Vessel shall be deemed a fishing Vessel, within the meaning of this Act, excepting such as shall be wholly employed in that Business, nor shall any Vessel be deemed a Coaster, excepting such as shall be wholly employed within the Province.

IV. *And be it further Enacted*, That every Coasting Vessel shall pay, in Lieu of the said Duty, at the Rate of Twenty Shillings per Annum, and no more, to be received and recovered in Manner as aforesaid.

V. *And be it further Enacted*, That all Monies arising by the aforesaid Duty shall be paid into the Treasury of the Province, and be applied towards the Support of the said Light House; to be issued for the said Purpose, by Warrant under the Hand and Seal of the Governor or Commander in Chief for the Time being of the Province; and in Case there be more Monies raised than is necessary for the Support of the said Light House, the Surplusage to be applied to the Uses of the Government.

All Vessels, except Coasters &c. to pay a Duty of Six Pence per Ton.

Vessels belonging to Freeholders in the Province, to pay only Four Pence per Ton.

What Vessels deemed Coasters &c.

Coasters to pay at the Rate of 20s. per Annum.

Monies arising by the Duty to be applied to the Support of the Light-house,

And the Surplus to the Uses of the Government.

C A P. III.

An ACT for the Quieting of Possessions to the *Protestant Grantees* of the Lands formerly occupied by the *French Inhabitants*, and for preventing vexatious Actions relating to the same.

*** *HEREAS* this Province of Nova Scotia or Acadie, and the Property thereof, did always of Right belong to the Crown of England, both by Priority of Discovery and ancient Possession, and that no Grant of Property to any of the Lands or Territories belonging thereto, is of any Validity, or can give the Possessor thereof any legal Right or Title to any Part thereof, unless derived from thence; Preamble.

And Whereas by a Treaty of Peace concluded at Utrecht, in the Year of our Lord One Thousand Seven Hundred and Thirteen, between Her most Sacred Majesty ANNE of Glorious Memory, Queen of Great Britain, &c. And his most Christian Majesty, it was concluded and agreed on, that all Nova Scotia, or Acadie, with it's antient Boundaries, and all other Things in those Parts which depend on the said Lands, together with the Dominion, Property, and Possession of the said Lands and Places, and all Right whatsoever by Treaties or any other Way attained, which the most Christian King, the Crown of France, or any other the Subjects thereof, had to the Lands and Places; and to the Inhabitants of the same, are yielded and made over to the Queen of Great-Britain, and to her Crown for ever;

And whereas at the Time of that Cession, many of the French King's Subjects did reside and dwell within this His Majesty's Province of Nova Scotia, and did not remove from the same, within the Space of Twelve Months, according to the Limitation of that Treaty, whereby they and their Posterity became Subjects of the Crown of Great Britain in every respect; notwithstanding which; contrary to their Allegiance, they began from that Time, and continued at all Times to aid, assist, and support, and join with His Majesty's Enemies; and altho' His Majesty, notwithstanding their manifest Treasons and Rebellion, in order to extend His Indulgence towards them, and if possible to reclaim and reduce them to His Obedience, was most graciously pleased, by His Royal Instructions to the Governors of this Province, to declare that the said French Inhabitants should have the peaceable Possession of such Lands as were under their Cultivation, Provided, That they the said Inhabitants should within Three Months from such Time as should be thought proper by the Governor, take the Oath of Allegiance appointed to be taken by the Laws of Great Britain, and likewise behave themselves as became good Subjects: And altho' several Proclamations had hitherto been issued by His Majesty's Governors of this Province, requiring their Oath of Allegiance, yet so far were they

T

they

they from obeying the same, that by a general Deputation of their principal Men, before His Majesty's Governor and Council, they absolutely refused to take the said Oaths so required of them, but on the contrary did still continue to aid, assist, and join with His Majesty's Enemies, and Five Hundred of them were found in Arms, within the Fort of Beaufour when the same was surrendered, and many of them, in Company with the Indian Savages, did frequently commit many horrid and barbarous Murders on His Majesty's Protestant liege Subjects, who were endeavouring to settle themselves on the Lands within this Province, whereby the Progress of the Settlement of this Province, with his Majesty's Protestant Subjects, was retarded, and the Crown put to an excessive great Expence, to defend and protect them; and also by such their treacherous Practices, His Majesty's most gracious Designs, as well towards them, as also towards His said Protestant Subjects, were frustrated; and had they not been timely removed by the Prudence and Vigilancy of his Excellency the present Governor, from the said Lands and Territories, into other his Majesty's Dominions, this invaluable Province, during the Course of this War, must inevitably have fallen into the Hands of his Majesty's Enemies the French;

And whereas since the Removal of the said French Inhabitants, His Excellency the Governor, in order to make an effectual Settlement in this Province, and to strengthen the same, has been pleased to make Grants of Townships to many substantial and industrious Farmers, Protestants, His Majesty's Subjects of the Neighbouring Colonies, in which Townships are contained some of the Lands formerly occupied by the said French Inhabitants; and as many other substantial and industrious Farmers, Protestants, are daily applying for Grants of Townships, wherein such Lands will be comprehended: And as some Doubts have arisen among the said Persons intending to settle the said Lands, concerning the Title of the said French Inhabitants to any of the said Lands, that may fall within their Townships: And altho' the said French Inhabitants have not, nor ever had, any legal Right or Title to the said Lands, derived from the Crown of Great Britain, yet, in order to remove such Doubts, and to prevent any troublesome or vexatious Suits of Law that may hereafter be brought for the Maintenance of any such Right or pretended Right to any of the Lands within this Province, formerly possessed or occupied by the said French Inhabitants; Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That no Action shall be retained in any of His Majesty's Courts of Record in this Province, for the Recovery of any of the Lands, within the same, by Virtue of any former Right, Title, Claim, Interest, or Possession, of any of the former French Inhabitants, or by Virtue of any Right, Title, Claim, or Interest, holden under or derived from them, by Grant, Deed, Will, or in any other Manner whatsoever.

No Action to be retained in any Court, for any Lands by Virtue of any Right of the former French Inhabitants.

II. And be it further Enacted, That when any Action shall be brought for the Recovery of any Lands within this Province, and

it shall appear upon Evidence, that the Grounds of such Action is founded upon any such Right, Title or Possession of the said *French* Inhabitants, or derived from them as aforesaid, that then this Act may be pleaded in Bar to all such Actions: And all His Majesty's Judges and Justices of the said Courts, are hereby required and enjoined, upon such Plea and Proof thereof, to dismiss such Action, and award Costs for the Defendants.

Such Actions to be dismissed, upon due Proof thereof.

C A P. IV.

An Act for the Relief of the Poor in the Town of *Halifax*.

~~WE~~ *HEREAS* there are, or hereafter may be, Persons residing within the Town of *Halifax*, who, notwithstanding their best Endeavours for obtaining a Livelyhood, may by the Providence of God, thro' Sickness or otherwise, be rendered incapable of supporting themselves or Families, Be it therefore Enacted by His Excellency the Governor, Council and Assembly, and by the Authority of the same it is hereby Enacted, That a Sum not exceeding One Hundred Pounds, be paid out of the Public Treasury of this Province, by Warrant under the Hand and Seal of His Excellency the Governor, into the Hands of the Overseers of the Poor of the Town of *Halifax* for the Time being; to be by them applied, within One Year from the Receipt thereof, towards the Relief and Assistance of such Persons as shall appear to them, upon strict Inquiry and Examination, to be proper Objects of such Charity.

Preamble.

One Hundred Pounds to be paid out of the Treasury, to the Overseers of the Poor, for the Relief of the Poor, within one Year.


II. *And be it further Enacted*, That the said Overseers of the Poor are hereby authorized to open Subscriptions, and collect and distribute such Sums as shall be subscribed by any well disposed Persons, for such charitable Uses. And the said Overseers shall, and are hereby obliged to keep a fair Account of the Receipts and Distributions of all Monies, which shall be paid into their Hands for such Purposes, and upon the Expiration of their said Office, lay the same before His Excellency the Governor, and His Majesty's Council for their Inspection, and what Balance may remain in the Hands of the said Overseers at the Expiration of their Office, shall be by them paid into the Hands of their Successors.

Overseers to collect Money by Subscription for charitable Uses.

Vide an Addition to this Act, 33. Geo. 2. c. 12. 2. Sess.

C A P. V.

An A C T for regulating *Petit Juries*, and declaring the Qualification of *Jurors*.


E. it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted,
 That from and after the First Day of *October* next, no Person shall be qualified to serve as a *Petit Juror*, unless he hath a *Freehold Estate* of the Value of *Twenty Shillings a Year*, or is possessed of *Ten Pounds* in personal Estate (a).

II. *And be it further Enacted,* That the *Provost Marshal* or his *Deputy* shall, as soon as conveniently may be, make out a *List* of all Persons qualified as aforesaid, who have dwelt and resided within the *Town and County of Halifax*, for three Months preceding, and return the same into the *Clerk's Office* of the *Inferior Court of Common Pleas* for said County, who shall thereupon make out a *Number of Ballots* of an equal Size, One for each Person, inscribing thereon the *Person's Name*; which *Ballots* shall be safely kept in a *Box*, to be lockt up by him, and shall be opened *Ten Days* before the *Sitting* of said Court in the *Presence* of the *First Justice*, and *Twenty Four Ballots* for the *Juries* of the *Inferior Court*, and the *Court of General Quarter Sessions of the Peace*, shall be drawn from thence by the *Clerk* of said Court, and a *List* of their *Names* shall be taken and delivered to the *Provost Marshal* or his *Deputy*, who shall summon the *Persons* so ballotted, to attend at the next *Sitting Court*, and they shall be accordingly entered on the *Venires* and returned to serve as *Jurors* at the said Court; and then the said *Box* shall be delivered to the *Clerk* of the *Supream Court*, and *Thirty Six Ballots* shall be drawn, in manner aforesaid, by the *Clerk* of said Court in the *Presence* of the *Chief Justice*, *Ten Days* before the *Sitting* of said Court, and the *Persons* so drawn, shall be summoned, entered on the *Venire* issuing from that Court, and returned as aforesaid; and so from Court to Court till the whole *Number* of *Freeholders* and other *Persons* qualified as aforesaid, shall have served as *Jurors*.

III. *Provided,* That if upon the *Return* of the *Venires* into the *Supream Court, Inferior Court, or General Quarter Sessions*, it shall appear to any of said Courts, that the *Persons* so ballotted for, and summoned by the *Provost Marshal*, cannot attend by *Reason* of

(a) By *Eng. Stat. 23. Hen. 8. c. 13.* In *Cities, &c.* Every natural-born Subject, &c, worth in *Goods* £40. shall be admitted in *Trials* of *Felony, &c.* altho' he have no *Freehold*. No yearly Value of the *Freehold*, required to qualify a *Juryman*, was fixed by the *Common Law*, and therefore a *Freehold* worth but 20s, &c. hath been adjudged sufficient in *Cases* where the *Eng. Statutes* do not require a *Freehold* of greater Value. 2. *Hale Hist. P. C. 272. Cro. Eliz. 413.*

Qualification of
Petit Jurors.
By Eng. Stat.
2. Hen. 5. c. 3.
The yearly Value of
the Freehold is Forty
Shillings.

Provost Marshal to
 make a *List* of *Per-*
sons qualified, and
 return it to the
Clerk of the *Infe-*
rior Court, who
 shall make *Ballots*
 for each *Person*, to
 be kept in a *Box*.

Method of drawing
 the *Ballots* for
 each *Court.*
Brit. Stat. 3. Geo. 2.
c. 25. Sect. 11. 12.
 13.

Method of supply-
 ing the *Places* of
Persons who cannot
 attend.

some unavoidable Accident, that then and in such Cases, the Chief Justice at the *Supream Court*, or the First Justice at the *Inferior Court* or *General Quarter Sessions*, shall order their respective Clerks in open Court, to draw out as many Ballots out of said Box, as will amount to the Number that cannot attend, who shall be immediately summoned by the Provost Marshal to attend as Jurors, and Ballots for the Names of those that are unable to attend, to be returned into the Box. And a List of all Persons qualified as aforesaid within the said Town and County, shall be taken by the said Provost Marshal or his Deputy from Year to Year, and returned as aforesaid, or as often as the said Lists shall be fully drawn.

IV. *And be it further Enacted*, That every Person summoned and returned as aforesaid to serve as a Juror, who (without sufficient Reason to be judged of by the Court) shall refuse or neglect to give his Attendance at the Court whereunto he is notified and summoned to appear, shall forfeit the Sum of Five Pounds, to be paid into the Hands of the said Clerk; and on his neglecting to pay the said Fine, before the End of the Term, it shall be levied by Warrant of Distress, to be issued from the said Court; and for any wilful Absence or Non Attendance on his Duty during the Sitting of the said Court, he shall forfeit for every Day's Neglect, the Sum of Ten Shillings, to be paid or levied in Manner aforesaid; and the Fines so collected by the Clerks aforesaid, shall be paid by them to the Treasurer of the Province for His Majesty's Use(b).

Persons summoned, and refusing or neglecting to attend (without sufficient Reason to be allowed by the Court) to forfeit £5.

and for every Day's Neglect 10s.
8. Co. 41. a.
2. Inst. 242.
2. Hale Hist. P. C. 309.

V. *Provided always*, That if by Reason of Challenge or otherwise, there shall not appear a sufficient Number of good and lawful Men to make up a Petit Jury or Juries, then and in such Case, the said Jury or Juries shall be filled up *de talibus Circumstantibus(c)*, to be nominated and returned by the Provost Marshal or his Deputy; and where the Provost Marshal or his Deputy is concerned, or related to either of the Parties in any Case, then the Jurors shall be nominated and returned by the Coroner.

If a sufficient Number do not appear, the Juries to be filled up by *Tales*.
By Eng. Stat.
3. Geo. 2. c. 25.
the Use of a Tales in Civil Causes in England seems to be taken away.

VI. *Provided also*, That no Persons ballotted for as Jurors for any Court, shall at the same Court, be returned to serve as Grand Jurors.

Persons ballotted as Jurors not to be returned on the Grand Jury.

VII. *Provided also*, That the Members of His Majesty's Council, the Members of the Assembly, the Treasurer of the Province, Register of Deeds, Chief Surveyor of the Crown Lands, Secretaries,

Persons excused from serving as Jurors.

(b) By Eng. Stat. 3. Geo. 2. c. 25. Sect. 13. Juror not appearing on Proof of Summons, shall forfeit for every Default from 40s. to £5. as the Judge shall think reasonable.

(c) A *Tales de Circumstantibus* may be awarded in all Capital Cases, upon Indictment or upon Criminal Informations, by Warrant from the Attorney General, or express Assignment of the Court, before which the Inquest is taken, 1. Lev. 223, 6. Mod. 245, Raym. 367. 1. Keb. 490. pl. 30. Eng. Stat. 14. Eliz. c. 9.

Ministers, Officers of His Majesty's Customs, Naval Officer, and his Deputy, Attornies at Law, Officers of His Majesty's Courts, Commissary of the Ordnance Stores, and Surgeons, shall be excused from serving as Jurors.

Vide Additions to this Act, 33. Geo. 2. c. 9. 2. Sess. 4. Geo. 3. c. 2. 2. Sess.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Fourth Day of *December*, Anno Domini 1759, and in the Thirty Third Year of the Reign of Our Sovereign Lord GEORGE the Second of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. being the First Session of the Second GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT to prevent *Gaming*.

B *E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted,* That from and after the Publication hereof, all Public Gaming at Cards, Dice, Tennis, Bowls, or any other Games whatsoever, and all Lotteries, and Public Gaming Tables, shall be deemed and adjudged to be Nufances; and all Notes, Bills, Bonds, Judgments, Mortgages, or other Securities or Conveyances whatsoever, given, granted, drawn, or entered into, or executed, by any Persons whatsoever, where the Whole or any Part of the Consideration of such Conveyances or Securities shall be for any Money, or other valuable Thing whatsoever, won by Gaming or Playing at Cards, Dice, Tables, Tennis, Bowls, or other Game or Games whatsoever, or by Betting on the Sides or Hands of such as do game at any of the Games aforesaid (a), or for the reimbursing or repaying any Money knowingly lent or advanced for such

Public Gaming at Cards, &c. and all Lotteries and Public Gaming Tables, shall be adjudged Nufances.

1. *Harwk. P.C.* 198. All Notes, &c. for Money, &c. won by Gaming, to be void.

Eng. Stat. 9. An. c. 14. Sect. 1.

1. *Strange* 495.

(a) 1. *Salk.* 344. *Huffey versus Jacob.* & *Pope versus St. Leger.* & 1. *Salk.* 345. *Anonimus.*

Gaming or Betting as aforesaid, or lent and advanced (*b*) at the Time and Place of such Play, to any Person or Persons so Gaming or Betting as aforesaid, or to any other Person or Persons in Trust for, or to the Use of them so Gaming or Betting, or that shall, during such Play, so Game or Bett, shall be utterly void, frustrate, and of none Effect, to all Intents and Purposes whatsoever: And that where such Mortgages, Securities, or other Conveyances, shall be of Lands, Tenements, or Hereditaments, or shall be such as incumber or affect the same, such Mortgages, Securities, or other Conveyances, shall enure and be to and for the sole Use and Benefit of, and shall devolve upon, such Person or Persons, as should or might have, or be intitled to such Lands, Tenements or Hereditaments, in Case the said Grantor or Grantors thereof, or the Person or Persons so incumbering the same, had been naturally dead, and as if such Mortgages, Securities, or other Conveyances, had been made to such Person or Persons so to be intitled after the Decease of the Person or Persons so incumbering the same; and that all Grants or Conveyances, to be made for the preventing such Lands or Tenements or Hereditaments from coming to, or devolving upon such Person or Persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void, and of none Effect to all Intents and Purposes whatsoever.

II. *And be it further Enacted*, That from and after the Publication hereof, any Person or Persons whatsoever, who shall by Playing at Cards, Dice, or Tables, or any other Game or Games whatsoever, or by Betting on the Sides or Hands of such as do play at any Game or Games as aforesaid, within Twenty Four Hours, or at any one Meeting or Sitting, lose to any one or more Person or Persons, so Playing or Betting, any Sum or Sums of Money, exceeding the Sum of Twenty Shillings, or any other valuable Thing or Things whatsoever beyond the Value of the Sum of Twenty Shillings, and shall pay or deliver the same or any Part thereof, the Person or Persons so losing and paying or delivering the same, shall be at Liberty, within One Month then next following, to sue for and recover the Money or Goods so lost and paid or delivered, or any Part thereof, from the respective Winner or Winners thereof, with Costs of Suit, by Action of Debt founded on this Act; to be prosecuted in any of His Majesty's Courts of Record, in which Action it shall be sufficient for the Plaintiff to alledge that the Defendant or Defendants are indebted to the Plaintiff, or received to the Plaintiff's Use, the Monies so lost and paid, or converted the Goods won of the Plaintiff to the Defendant's Use, whereby the Plaintiff's Action accrued to him according to the Form of

Eng. Stat. 9. An. c. 14. Sect. 2.
Persons losing more than 20s. within 24 Hours,
1. Salk. 345. *Dickson versus Parvler.*
2. Mod. 54. *Hill versus Pheasant.*
2. Stra. 1079. *Turner versus Warren.*

may sue for and recover the same from the Winner within One Month;

(*b*) 2 Stra. 1155. *Bowyer versus Brampton.* Innocent Indorsee of a Note for Money knowingly lent to game with, can maintain no Action against the Drawer. 2. Stra. 1249. A Parol Loan of Money to play with is not void, for the Word *Contract* is not in this Act, tho' it is in the Stat. of Usury.

And in case such Person shall not sue within that Time,

any other Person may sue for and recover the same within One Month after.
One Half to the Use of the Poor.

Parents, &c. of Persons under Age, may sue for Money, &c. won from them.

Eng. Stat. 16. Car. 2. c. 7. Sect. 2. & 9. Ann. c. 14. Sect. 5. Persons winning any Money, &c. fraudulently,

to forfeit five Times the Value.
2. Stra. 1048. *Rex versus Luckup. The Penalty must be sued for, after the Conviction.*

Two Justices may order Gaming Tables to be removed, as Public Nuisances, &c.

this Act; and in Case the Person or Persons who shall lose such Money or other Thing as aforesaid, shall not, within the Time aforesaid, really and *bonâ fide*, and without Covin or Collusion, sue and with Effect prosecute for the Money or other Thing so by him or them lost and paid, or delivered as aforesaid, it shall and may be lawful to and for any Person or Persons, within One Month thereafter, by any such Action or Suit as aforesaid, to sue for and recover the same with Costs of Suit, against such Winner or Winners as aforesaid; the one Moiety thereof to the Use of the Person or Persons that will sue for the same, and the other Moiety to the Use of the Poor of the Town where the Offence shall be committed.

III. *And be it further Enacted*, That the Parent, Guardian, or Master of any Person or Persons under the Age of Twenty One Years, shall likewise be at Liberty to sue for and recover, in Manner as is before prescribed, any Money or other Thing won by Gaming from such Persons within lawful Age, and treble the Value of the Money so won, with Costs of Suit.

IV. *And be it further Enacted*, That if any Persons shall, by Fraud, unlawful Device, or ill Practice whatsoever, in playing at any Game or Games whatsoever, or by bearing a Share or Part in the Stakes, or by Betting on the Sides of such as shall play, win, or acquire to themselves, or to any others, any Money or other valuable Thing, every Person so winning or acquiring by such ill Practice as aforesaid, and being thereof convicted of any of the said Offences, upon Indictment or Information, shall forfeit five Times the Value of the Money or other Thing so won as aforesaid; such Penalty to be recovered by such Person as shall sue for the same by such Action as aforesaid.

V. *And for the better suppressing all Publick Gaming Houses, it is hereby further Enacted*, That it shall and may be lawful to and for any Two or more of His Majesty's Justices of the Peace, to enter into any Publick Houses suspected of keeping any Gaming Tables, and to order and direct the Keepers of such Gaming Tables, if any such shall be found therein, to remove the same within Forty Eight Hours, as a Public Nuisance; and any Person refusing or neglecting to obey the Order of such Justices, the said Justices shall have Power to break and prostrate such Publick Gaming Tables, and also to require sufficient Security from Persons keeping such Publick Gaming Houses, for their good Behaviour during Twelve Months, or for their Appearance at the next Quarter Sessions, there to be prosecuted for offending against this Act, and on Conviction, to be either fined or imprisoned, as the Court shall direct.

C A P. II.

An ACT for permitting Persons of the Profession of the People called *Quakers*, to make an Affirmation instead of taking an *Oath*.

E it Enacted by His Excellency the Governor, Council, and *B* Assembly, and by the Authority of the same it is hereby Enacted, That every Person of the Profession of the People called *Quakers*, who shall be required upon any lawful Occasion to take an Oath, shall instead of an Oath in the usual Form, be permitted to make his or her solemn Declaration or Affirmation in these Words, *to wit*.

Eng. Stat. 22. Geo. 2. c. 46. Sect. 36.

Quakers may make Solemn Affirmation, instead of taking an Oath.

“ I A. B. do solemnly, sincerely, and truly declare and affirm:”

Which solemn Affirmation shall be adjudged and taken to be of the same Force and Effect, in all Places where by Law an Oath shall be required, as if such *Quaker* had taken an Oath in the usual Form.

II. *And be it further Enacted*, That every Person who shall have made such solemn Affirmation, and shall be convicted of wilfully, falsely, and corruptly, having affirmed any Thing, which if the same had been sworn in the usual Form, would have amounted to wilful and corrupt Perjury, shall incur the same Penalties as Persons convicted of wilful and corrupt Perjury.

Persons falsely affirming to suffer as if guilty of Perjury.

III. *Provided*, That no *Quaker* or reputed *Quaker* shall, by Virtue of this Act, be admitted to give Evidence in any criminal Causes (a), by such solemn Declaration or Affirmation as is hereby directed (b).

Criminal Causes excepted.

IV. *Provided*, That no Persons shall be deemed *Quakers* within the Intention of this Act, unless they shall affirm in the Form before directed, that they are of the Profession of the People called *Quakers*, and have been so for One Year then last past.

Quakers to affirm that they have been so for One Year.

V. *And be it further Enacted*, That this Act shall be deemed to be a publick Act, and be judicially taken Notice of as such.

To be deemed a Publick Act.

(a) By Eng. Stat. 22. Geo. 2. c. 46. Sect. 37. *Quakers* are also disqualified from serving by any Affirmation &c. on Juries, or bearing any Place of Profit from the Government.

(b) Attachment, for Non performance of Award cannot be grounded on Affirmation of *Quakers*, 1. Stra. 441. Nor Articles of Peace, 1. Stra. 527. Nor Appeal of Murder, tho' as between Party and Party it is a Civil Suit. 2. Stra. 856. Nor Information for a Misdemeanor, 2 Stra. 872. Affirmation of Service of a Rule to shew cause by a *Quaker*, in a criminal Prosecution, was held sufficient to make the Rule absolute. 2. Stra. 1219.

C A P. III.

An ACT in Addition to an Act, intituled, *An Act for the Establishment of Religious Public Worship in this Province, and for suppressing of Popery.*

Preamble.

HEREAS although in and by the said Act it is Enacted, *W* that the Sacred Rites and Ceremonies of Divine Worship, according to the Liturgy of the Church established by the Laws of England, shall be deemed the fixed Form of Worship amongst us, and the Place wherein such Liturgy shall be used, shall be respected and known by the Name of the Church of England as by Law established; and although a Church is already built, and public Worship performed therein, yet no Provision is made in the said Act for the Choice of Parish Officers, or to empower the Parishioners belonging to the said Church to raise Money, for the Support and Maintenance of such Ministers as are or shall be hereafter appointed to officiate therein, and for the Repairs of said Church; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the Parish of the Church commonly called and known by the Name of SAINT PAUL'S Church, shall extend and comprehend all the Lands lying and being in the Township of Halifax, hereafter to be known and called by the Name of the Parish of Saint Paul's, for and during such Time as the said Township shall consist of one Parish only, and that the Church Wardens and Parishioners of said Parish, are hereby empowered to meet as soon as convenient may be, Notice being first given of such Meeting, and the Place thereof, by the Rector of said Parish, and shall then and there chuse Twelve Officers of the said Parishioners for Vestry Men, in which Vestry shall be included the Ministers belonging to the said Church, and officiating therein; and the said Church Wardens and Vestry shall have and exercise all such Powers and Authorities, for the Benefit of the said Church, as are usually exercised by Church Wardens and Vestries in the Parish Churches in England, (a) and shall to all Intents and Purposes be, and are hereby empowered, as a Body Politic incorporate, to sue and be sued, (b) and to ask, demand, and sue for the Rents due for the

Parish of St. Paul
to comprehend all
the Lands in the
Township of
Halifax.

Church Wardens
and Parishioners
to chuse
12 Vestry Men,

who shall have the
same Powers as in
England.

(a) When met, the major Part present will bind the whole Parish. Watson's Clergyman's Law, c. 39. Right of adjourning Vestry is in the whole Assembly, 2. Stra. 1045. By Custom in England *Special Vestries* may make Rates, take the Accounts of Churchwardens, &c. but when Rates are made, the Parishioners must have Notice of the Vestry to be held for that Purpose, when all that are absent shall be concluded by a Majority of those present. Wood's Inst. Com. L. 90. If Parishioner having Right to be present, and vote in the Vestry, be shut out of the Vestry Room, Action on the Case lies, Mod. Cases in L. & Eq. 52. 354 1. Stra. 624.

(b) Church Wardens are a Corporation to sue for Church Goods, and to purchase Goods, for the Use of the Parish, but not a Corporation to purchase Lands, or to take by Grant. Gibb. Cod. Jur. Eccl. 215. Church Wardens cannot dispose of Goods without Consent of the Parish. Watson's Clerg. L. c. 39. 1. Rolls Abr. 393. Cro. Jac. 234.

Pews of said Church, for the Benefit of the Ministers and Repairs thereof, and to take and receive all Gifts, Grants, either of Lands or Money, to and for the Use of the said Parish Church, and to improve the same for the Benefit and Advantage thereof, according to their best Discretion, and the true Intent and Meaning of the Donors: And the said Meeting of the Parishioners for the Choice of Vestry Men, shall hereafter be annually on *Michaelmas Day*, on which Day shall also be chosen annually the Church Wardens for the said Church, by the said Parishioners(c).

Church Wardens and Vestrymen to be chosen on Michaelmas Day annually.

II. *And be it further Enacted*, That if any of the said Parishioners, who shall be regularly chosen into the Offices aforesaid, do refuse to serve in the same, he or they shall forfeit the Sum of Five Pounds, to be recovered by Bill, Plaint, or Information, in any of His Majesty's Courts of Record; which Forfeiture shall be to and for the Use of the said Parish Church (d).

Persons refusing to serve, forfeit £5.

III. *And be it further Enacted*, That the said Parishioners may, by a Vote of the Majority at their annual Meeting then present, grant such Sums of Money towards the Support and Maintenance of their Minister or Ministers, or for the Repairs of the said Church, as they may think necessary; which said Vote shall be binding on all the Parishioners belonging to the said Church, and others dwelling in the said Parish, not exempted by Law from paying towards the Support of the Church of England; which Sum or Sums of Money so voted, shall be assessed in just and equal Proportions on every Parishioner, according to their several Abilities.

Parishioners may, at their annual Meeting, grant Money for the Support of their Ministers, &c.

IV. *And be it further Enacted*, That for the greater Ease of the Parishioners, in paying in such Sums so granted, that for every yearly Grant for the Support of the Ministry, it shall be assessed by the Church Wardens and Vestry in two equal Assessments, one Half to be paid in the first Six Months, and the other Half in the last six Months.

to be paid every Half Year

V. *And be it also Enacted*, That the said Church Wardens shall, and they are hereby impowered, to collect and receive such

Church Wardens to collect the Rates.

(c) By Custom Parish may chuse both the Church Wardens, 2. Roll's Abr. 287. In London both the Church Wardens are appointed by the Parish. Ld. Raym. 138. But by Can. 89. the Minister shall chuse One, and the Parishioners another. In new Churches the Canon must take place, because no Custom can be pretended, unless saved by Act of Parliament. Gibson Cod. Jur. Eccl. 215.

(d) By Eng. Stat. 1. Will. 3. c. 18. Sect. 7, 11. (the Toleration Act) If a Dissenter, not being ordained, be chosen Church Warden, &c. he may execute the Office by a Deputy—but a dissenting ordained Minister is exempted from being chosen a Church Warden or to any other parochial Office.

What other Persons are exempted from all Parish Offices vide 1. Roll's Rep. 368. 2. Roll's Abr. 272. Eng. Stat. 6. Will. 3. c. 4. Sect. 2. 3. Eng. Stat. 10. & 11. Will. 3. c. 23. Sect. 2. Gibf. Cod. Jur. Eccl. 215.

Mandamus will lie to admit to Office of Church Warden, &c. Ld. Raym. 138. 1. Saik. 166. 1. Stra. 610.

Rates

Rates and Taxes ; and if any Person thus rated or taxed, shall not pay the same within One Month after Notice given by such Church Wardens, that then it shall and may be lawful, on the Complaint of such Church Wardens, on Oath, that due Notice has been given as aforesaid, for any One of His Majesty's Justices of the Peace for the County of *Halifax*, by Warrant of Distress under his Hand and Seal, to cause the same to be levied on the Goods and Chattels of the Person so failing.

Persons over rated
may appeal to the
Sessions.

VI. *Provided always*, That if any Person shall think himself over rated, he may appeal for Redress to the next *General Sessions of the Peace* for the said County, and the Justices thereof are hereby required and impowered to examine, hear, and determine all and every such Appeal or Complaint, and to give Redress as they in their Judgment shall think equitable, and such their Order and Judgment shall be final, and bind all Parties.

Rates to be made
the First Monday
after Easter Yearly.

VII. *And be it further Enacted*, That the Church Wardens and Vestry may meet as often as the Business of the said Church shall require, but for the making the Assessments and rating the Parishioners, they shall and are hereby enjoined to meet on the first Monday after Easter yearly and every Year ; and no Assessment, unless the same be agreed on and subscribed by at least Seven of the said Vestry and Church Wardens, nor any other Act by them done or agreed on to be done, shall be valid, and have its Force and Effect in Law, unless also Seven of them, at least, be present.

Ministers of the
Church of England,
subject to the Pen-
alties prescribed
by the Canons and
no other.
*This Clause repeals
the Penalties by Pro-
Law 32. Geo. 2.
c. 17. Sect. 2. & 3.*

VIII. *And be it further Enacted*, That the Ministers of the Church of England, not conforming themselves to the Rules prescribed by the Canons of the said Church, shall be subject to the Censures and Penalties incurred therein, and none other, any Law, Usage, or Custom to the contrary notwithstanding.

C A P. IV.

An ACT for erecting a *Market House* within the Town of *Halifax*, and for raising a Sum of Money by *Lottery* for that Purpose.

Exec.

C A P. V.

An ACT to enable Proprietors to divide their Lands held in Common and undivided.

Repealed by His
Majesty in Council.

C A P. VI.

An ACT in Addition to an Act intituled, *An Act relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures*; made and passed in the 32^d Year of His Majesty's Reign.

E. it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted,
 B That from and after the First Day of May, 1760, no Provision or Goods of any Kind shall be sold within the Province, by Steelyards (except the Article of Hay) under the Penalty or Forfeiture of Twenty Shillings, to be paid by the Person or Persons offending, for each and every Default, and to be recovered before any of His Majesty's Justices of the Peace.

No Provisions or Goods of any Kind (except Hay) to be sold by Steelyards, on Penalty of 20s.

II. *And it is further Enacted by the Authority aforesaid,* That the Clerks of the Market are hereby impowered to inspect all Beams and Scales, Weights and Measures, as well of Brasses as of other Metals, and also the Steelyards used for weighing Hay, once in every Three Months, or oftner, as they shall see Cause; not only those used by the Inhabitants, selling publickly by Weights and Measures, but also those used on board any Ships or Vessels lying at any Wharves, or at Anchor in any Harbour, or by any Person or Persons selling as aforesaid within the Province, and the same to assay and stamp, and dispose of as in said Act is directed, and under the same Penalties: And all Masters of Ships or Vessels refusing Admittance to the said Clerks of the Market, shall be liable to the same Penalties as any Inhabitant, in Manner and Form as prescribed by said Act, and to be recovered in the same Manner.

Clerks of the Market to inspect Scales, Weights, &c. once in three Months and

to assay and stamp the same.

III. *And it is also further Enacted,* That all Fines and Forfeitures incurred by this, or the former recited Act, shall be applied, Three Fourths to the Clerk of the Market, and the other Fourth to the Poor of the Town where the Offence shall be committed.

Three Fourths of Fines to the Clerk of the Market, One Fourth to the Poor.

Vide further Additions to this Act, 4. Geo. 3. c. 5. 2. Sefs. 6. Geo. 3. c. 5.

C A P. VII.

An ACT to prevent the importing disabled, infirm, and other useles Persons into this Province.

Repealed by His Majesty in Council.

C A P. VIII.

An ACT to prevent disorderly Riding Horses, and Driving Carts, Trucks, and Sleds, Slays or any other Carriage whatsoever, within the Town of *Halifax*, or any other Town within the Province.

Preamble.

*I*N Order to prevent the Inconveniencies and Mischiefs which might arise from the negligent and disorderly Riding Horses and Driving Carts, Trucks, and Sleds for Carriage of Burthen, or any other Carriage whatsoever, within the Town of Halifax, or any other Town within the Province; Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Publication hereof, no Person or Persons shall, on any Pretence whatever, gallop or ride at full Speed on Horseback, or having the Charge of driving any Horse or Horses, in any Cart, Truck or Sled, shall ride upon such Horse or Horses, or remain placed in or upon any Part of such Cart, Truck or Sled, within any of the Streets or Highways of the said Town or Towns; and that no such Driver or Drivers shall omit, during such Time, to lead the Shaft or Thill Horse by an Halter, not exceeding Four Feet in Length, or shall drive any such Horse or Horses faster than a Footpace, upon Penalty of Ten Shillings for every such Offence, to be paid upon Conviction by the Testimony of One credible Witness, before any One of His Majesty's Justices of the Peace, within Twenty Four Hours after such Offence committed; and in Case of any such Offender's Refusal to pay the same, said Offender shall be put to Labour for the Space of Four Days in repairing the said Highways, under the Direction of the Surveyor or Surveyors of the Highways, or any of them; and in Case of Refusal or Neglect to perform such Labour, it shall and may be lawful for any Justice of the Peace, upon Complaint of the said Surveyor or Surveyors, or any of them, to cause such Offender to be committed to the House of Correction, where he shall forthwith receive Ten Stripes, in the usual Manner of Correcting Offenders at the said House, and thereupon be discharged.

No Person to ride at full Speed on Horseback, &c. in any Town,

on Penalty of 10s. or

four Days Labour in the Highways,

on Refusal to be whipped Ten Stripes.

Owners of Sleds or Slays to fix Six Horse Bells on the Horse Harnes, &c.

on Penalty of 20s.

II. *And be it further Enacted*, That every Owner or Proprietor of any Sled or Slay, used either for Carriage of Goods or Persons, shall cause at least six Horse Bells to be affixed to the Horse Harnes of the said Sled or Slay, and shall not drive the same, or any other Carriage whatsoever, in a disorderly Manner, upon Penalty of Twenty Shillings for every Omission or Offence, upon Conviction, on the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace, within Twenty Four Hours after such Offence committed; and in Case of Refusal or Neglect

to pay the same, to be levied on the Goods or Chattels of such Offender, by Warrant of Distress and Sale under the Hand and Seal of the said Justice.

III. *All Fines and Penalties* incurred by this Act, to be paid into the Hands of the Surveyors of the Highways for the Time being, to be by them applied towards the repairing and amending the same.

Fines to be applied to repair Highways.

C A P. IX.

An ACT in Addition to an Act intituled, *An Act for regulating Petit Juries, and declaring the Qualification of Jurors.*

✠✠✠✠ *E*t Enacted by His Excellency the Governor, Council, and
 ✠✠✠✠ *B* Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Publication hereof, no Person shall be deemed qualified to serve as a Grand Juror for the County of *Halifax*, at the *Supream Court*, or at the *Sessions of the Peace* for the said County, unless such Person shall be possessed of a Freehold (*a*) in the said County, of the clear yearly Value of Ten Pounds, or of a Personal Estate (*b*) of the Value of One Hundred Pounds.

Qualification of Grand Jurors.
 Eng. Stat. 2. H. 5.
 c. 3.

Eng. Stat. 23.
 Hen. 8. c. 13.

II. *And be it further Enacted*, That the Provost Marshal of the said County, shall every Year, *To wit*, On or before the Tenth Day of *April*, make Return of Fifty five Persons, so qualified as aforesaid, to the Clerk of the *Supream Court*, who shall thereupon cause the Names of the Persons so returned to him, to be written on distinct Pieces of Paper or Parchment, as near as may be of equal Size, which shall be severally rolled up in the same Manner, and put into a Box to be locked up by the said Clerk; and Ten Days before the Sitting of the *Supream Court*, the said Clerk shall publicly in the Presence of the Chief Justice, at the Court House, draw Twenty Three of the said Papers or Parchments, and Eight Days before the Sitting of the said Court, a Precept shall issue in the usual Form, containing the Names of the Persons so drawn, to the said Provost Marshal or his Deputy, requiring him to summon the said Persons to attend as Grand Jurors at each of the two Sittings of the *Supream Court* next following, and to make due Re-

Method of Returning, Balloting, and Summoning, Grand Jurors.

(a) 2. Hales Hist. P. C. 155. 2. Hawk. P. C. 216, 415. Want of Freehold is a good Challenge of a Juror, where not otherwise provided for by Statute.

(b) 2. Vent. 366. 2. Hawk. P. C. 416, 417. By Eng. Stat. 4. & 5. Will. & Mar. c. 24. Copyholders (as well as Freeholders) of £10. per Ann. may be summoned on Juries, and by Brit. Stat. 3. Geo. 2. c. 25. Sect. 18. & 4. Geo. 2. c. 7. Leaseholders are qualified to be Jurors, &c.

turn of the same, and at the End of the First Term, the said Box be delivered to the Clerk of the Peace of the said County, who shall in like Manner, in the Presence of the Chairman of the *General Quarter Sessions*, draw Sixteen Papers or Parchments, Ten Days before the Meeting of the then next *Quarter Sessions*; and the Persons so drawn shall be summoned and returned as aforesaid, to attend the said Court of *Quarter Sessions* at each of their two next Sittings as Grand Jurors; and the remaining Sixteen Persons shall, in like Manner, be summoned and returned to serve as Grand Jurors at each of the two next *Quarter Sessions* ensuing the *Quarter Sessions* aforesaid.

III. *And be it further Enacted*, That if any Person so summoned, shall refuse or neglect to appear on the First Day of the Sitting of the said respective Courts, unless prevented by Sickness or other necessary Cause, to be judged of by the Court, it shall and may be lawful to impose a Fine of Five Pounds on the Person so neglecting to appear, or if any Person who shall appear, shall without just Cause to be allowed by the Court, be absent, it shall and may be lawful to impose a Fine of Twenty Shillings for each Days Absence; (c) and in Case such Fines shall not be paid in Two Days after imposing the same, to the said Clerks respectively, the same shall be levied by Warrant of Distress; to be forthwith issued from the Court wherein such Fine was imposed, and shall be deposited with the Clerk of such Court, and within two Days after the Rising of the said Courts, the said Fines shall be paid to the Treasurer of the Province, for the Use of His Majesty.

IV. *And be it further Enacted*, That if a sufficient Number shall not appear upon such Summons, for constituting a Grand Jury, the said Clerks shall be directed to draw in open Court, so many of the remaining Papers or Parchments, as shall be requisite for that Purpose, and the Persons whose Names are contained in the same, shall be immediately summoned by the Provost Marshal or his Deputy, to attend as Grand Jurors; and the Papers or Parchments containing the Names of those who shall not appear, shall be forthwith returned into the said Box, and the said Persons shall be liable to the like Fines for Non Appearance or Absence, to be levied and paid as herein before directed.

V. *And be it further Enacted*, That no Person who hath served as a Grand Juror, at two Terms of the *Supream Court*, or at two Terms of the *Quarter Sessions*, shall be compelled to serve as Petit Jurors within One Year from the Time of such his Attendance as a Grand Juror.

VI. *And be it further Enacted*, That no Papist shall serve or be returned to serve on any Grand Jury; and that in all Trials of

(c) 2. Hale's Hist. P. C. 309.

Persons refusing or neglecting to appear, to be fined £5.

and after appearing, 20s. for each Day's Absence.

Eng. Stat. 35. H. 8.

c. 6. Brit. Stat.

5. Geo. 2. c. 25.

Sect. 13.

If a sufficient Number do not appear, others to be drawn in open Court, and summoned to attend.

Persons who have duly served as Grand Jurors, not compelled to serve as Petit Jurors, within One Year.

Eng. Stat. 3. Geo. 2.

c. 25. Sect. 4.

Papists not to serve on Juries.

Issues on any Presentment, Indictment, or Information, it shall be lawful to challenge any Papist returned as a Juror to try the same, and such Challenge shall be allowed(d).

VII. *And be it further Enacted*, That in all Cases where it shall be judged necessary to hold a special *Supream Court* or *Court of Sessions*, it shall and may be lawful for the said Courts to issue a Precept and Venire for summoning Grand and Petit Jurors, in the same Manner as has been practised before the making of this or the said former *Act for regulating Petit Juries, and declaring the Qualifications of the same*.

VIII. *And be it further Enacted by the Authority aforesaid*, That Grand Juries shall not be obliged to attend more than Six Days at each Term of the *Supream Court (e)*, nor more than Three Days at each Term of the *Quarter Sessions*, unless upon some special Occasion; and that Petit Juries shall not be obliged to attend more than Ten Days from the First Day of the Jury's being sworn*, at either of the said Courts.

Vide a further Addition to this Act, 4. Geo. 3. c. 2. 2. Sess.

(d) By Eng. Stat. 3. Jac. 1. c. 5. Sect. 11. Every *Papish Recusant Convict* is disabled as a Person *Excommunicated*, &c. who could not be a *Witness*, because those who are excluded from the Church, were supposed not to be under the Influence of Religion—And by *Ld. Ch. Baron Gilbert's Law of Evidence*, 103. grounded on 2. Bull. 155. *Papish Recusants* like Persons *excommunicate* cannot be *Witnesses*; but *ex Opinions Hawk.* in his P. C. 2. Vol. 23. 24. *contra. Cawley's L. of Recusants*, 216. Nor could an *Excommunicate* be a Juror, for anciently *Excommunication* was a Cause of Challenge to a Juror. Co. Lit. 158. 2. Hawk. P. C. c. 4. 3 and upon these Principles a *Papish Recusant* seems disqualified to be a Juror. And by Eng. Stat. 3. Jac. 1. c. 5. Sect. 8. it is expressly enacted, That no *Recusant Convict* shall be a *Judge, Minister, &c.* of any Court.

By Act of Parliament in *Ireland*, Irish Stat. 6. Ann. c. 6. Sect. 5. No Papist shall serve or be returned on any Grand Jury, unless it shall appear to the Justices, that a sufficient Number of Protestants cannot be then had for that Service, and in all Trials of Issues on any Presentment, Indictment, Information, or Action on any of the Statutes mentioned in this Act, it shall be lawful for the Prosecutor or Plaintiff to challenge any Papist returned as a Juror to try the same, which Challenge the Judges shall allow.

The Eng. Stat. 3. Jac. 1. c. 5. seems not to have been re-enacted in *Ireland*.

(e) 2. Hale's Hist. P. C. 156. The Grand Jury sworn the first Day of the Gaol Delivery, commonly serve the whole Session, but if when they have brought in all their Bills, they should be discharged, and new Offences arise, Court may command another Grand Enquest to be returned and sworn.

In case of a Special Supream Court or Court of Sessions, Grand and Petit Juries to be summoned as heretofore practised.

Grand Juries not to attend more than Six Days at the Supream Court, nor more than three Days at the Sessions. Nor Petit Juries more than ten Days. The Petit Juries are never sworn till each Cause is brought on to Trial—Quart. when the Ten Days are to commence?

C A P. X.

An A C T for the better and more effectual Establishment of the *Church of England* in this Province.

*** E it Enacted by His Excellency the Governor, Council, and
 *** B *** Assembly, and by the Authority of the same it is hereby Enacted,
 *** That hereafter when any Church, Chapel, or Place of
 *** Worship shall be erected in any Part of this Province,
 for the Celebration of Divine Service, according to the Rites and

When any Church &c. shall be hereafter erected, the Governor and Council to prescribe the Limits of the Parish.

* *In what Manner Parochial Churches are founded, Vide Dr. Burn's Ecl. Law. 2. Vol. 132. Bp. Gibson's Cod. Jur. Ecl. Ang. Tit. 9.*

Church Wardens, &c. to be chosen annually, in Manner prescribed for the Parish of St. Paul's in Halifax.

33. Geo. 2. c. 3.

Powers and Authorities of Church Wardens and Overseers of the Poor.

† 33. Geo. 2. c. 1.

‡ 33. Geo. 2. c. 4.

Ceremonies of the *Church of England*, it shall and may be lawful for His Excellency the Governor or Commander in Chief, with the Advice and Consent of His Majesty's Council, to prescribe Limits and allot a certain District, which shall be the Parish of the Church so erected *; and it shall and may be lawful for the Inhabitants or Persons residing within the said District, to meet for the Choice of Church Wardens, Vestry, and Parish Officers, which Choice shall be made yearly, and at the same Time and Manner as is prescribed already for the Parish of *St. Paul's* in *Halifax*; and all Meetings, Acts and Proceedings of the Parishioners, Church Wardens, Vestry, and Parish Officers of said Parish so erected, in Behalf of the said Church and Parish, shall be according to the Rules and Regulations set forth for *St. Paul's Church* in *Halifax*, in an Act intituled, *An Act in Addition to an Act for the Establishment of religious public Worship in this Province, and for suppressing of Popery*. And the said Church Wardens and Vestry are hereby empowered to act in the same Manner, in all Cases, as is prescribed in said Act.

II. *And be it further Enacted*, That the Church Wardens of every Parish within the Province, together with the Overseers of the Poor, shall have and exercise the same Powers and Authorities in every Respect as are given to the Overseers of the Poor, by an Act intituled, *An Act for Regulating and Maintaining an House of Correction or Work House within the Town of Halifax, and for binding out Poor Children* †; and also by an Act intituled, *An Act for the Relief of the Poor in the Town of Halifax* ‡.

Vide an Addition to this Act, 34. Geo. 2. c. 10.

C A P. XI.

An A C T for regulating the Rates and Price of Carriages.

Preamble.

Justices in Sessions to regulate Rates for the Carriage of Wood, &c. in Halifax.

HERE AS the Rates and Price demanded by the Owners of Trucks, Carts, and other Carriages of Goods, Wares and Merchandize, are very exorbitant and excessive, and burthensome to Trade: In Order, therefore, to remedy the same, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the Justices in their General Sessions of the Peace, held for the County of *Halifax*, shall twice every Year, in the Month of *March* and in the Month of *September*, regulate the Fares and Rates for the Carriage of Wood, Barrels, Hogsheads, and other Wares and Merchandize in the Town of *Halifax* and its Suburbs, Consideration being had to the Price of Hay, Provender for the Cattle, and Price of Day Labourers; and shall cause a Table of the several Rates agreed upon by

by them at their Sessions to be printed and posted up in the most public Places in and about the Town of *Halifax*.

II. *And be it further Enacted*, That if any Carman or Owner of Trucks or Carts, or any other Carriage, shall ask, demand or receive, from any Person, any other or greater Rates or Fare, than is allowed and prescribed by the Table aforesaid, he or they shall forfeit and pay the Sum of Twenty Shillings, to be recovered on the Oath of the Prosecutor, before any One of His Majesty's Justices of the Peace for the County of *Halifax*, and to be levied by Warrant of Distress: One Half to be paid to the Prosecutor, the other Half to be applied to and for the mending of the Streets of *Halifax*.

Carmen, &c. demanding any greater Rates, forfeit 20s.

III. *And be it also further Enacted*, That the Justices of the Peace at the *Quarter Sessions*, held in and for the several Counties within the Province, are also impowered and hereby required every Year, in the Months of *March* and *September*, to regulate the Fares and Rates of Carriages for the several Towns in each of the said Counties, in like Manner and with the same Penalties, and to be recovered as is directed by the preceding Clauses of this Act; One Half of the Fines and Forfeitures to be paid to the Prosecutor, and the other Half applied to and for mending and repairing the Streets of the Town where such Offence shall be committed.

Justices in Sessions, in other Counties, to regulate the Rates of Carriages, for each Town.

C A P. XII.

An A C T in Addition to an Act, intituled, *An Act for the Relief of the Poor in the Town of Halifax*: Made and passed in the 33^d Year of His Majesty's Reign.

Exec.

C A P. XIII.

An A C T to prevent any private Trade or Commerce with the *Indians*.

Repealed by His Majesty in Council.

C A P. XIV.

C A P. XIV.

AN ACT in Addition to an Act, intituled, *An Act for preventing Trespasses.*

Preamble.

HEREAS by an Act made and passed in the Thirty Second Year of His Majesty's Reign, intituled, An Act for preventing Trespasses, it was Enacted, "That it should be lawful to impound any Swine going at large, within the Streets, Lanes, or Suburbs of the Town of Halifax;" And whereas no Provision was therein made for inclosing Ground for a Pound; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That a Pound shall be forthwith made of Forty Feet square, at the publick Expence; and that the Grand Jury of the Supream Court, to be held in April next, shall appoint a Keeper of the same.

A Pound to be made forty Feet square, and a Keeper appointed.

Trespassing Cattle to be impounded.

II. And be it further Enacted by the Authority aforesaid, That if any Damage shall be done by breaking any Inclosures, and destroying any of the Produce thereof, by any Horses, Sheep, Goats, Swine, or Neat Cattle, it shall and may be lawful for the Person or Persons whose Fence or Fences shall have been so broken, and whose Inclosures shall have received such Damage, to cause the said Horses, Sheep, Goats, Swine, or Neat Cattle, to be impounded until the Owner or Owners of such trespassing Cattle shall claim the same, and the Keeper of the Pound shall cause the same to be cried as soon as may be, in order that the Person or Persons injured may proceed against the said Owner or Owners of such Horses, Sheep, Goats, Swine, or Neat Cattle, refusing to pay the Damages done by their said Horses, Sheep, Goats, Swine, or Neat Cattle, as is directed in the First Clause of the Act intituled, *An Act for preventing Trespasses*, and the Owner or Owners of such Horses, Sheep, Goats, Swine, or Neat Cattle, shall pay to the Keeper of the Pound, over and above the Damages which shall be adjudged to have been done by the said Horses, Sheep, Goats, Swine, or Neat Cattle, for the Support of the same, for each and every Day the same shall be impounded, One Shilling for every Horse, and Head of Neat Cattle, and Six Pence for every Sheep, Goat, or Swine. And if the Owner of such Horses, Sheep, Goats, or Swine, or Neat Cattle, shall refuse to pay the same to the Keeper of the Pound, together with the Charge of Crying the same, within Fourteen Days after the same shall be impounded, the said Horse or Horses, Neat Cattle, Sheep, Goats, or Swine, shall be publickly sold, and the Money arising from said Sale, after deducting therefrom the Pay of the Keeper for supporting them, and the Damages done by the said Horse or Horses, Neat Cattle, Sheep, Goats, or Swine, the Remainder shall be paid to the Owner, and if no Owner shall appear, then to the Overseers of the Poor, for the Use of the Poor of the Township of Halifax.

Owners of such Cattle refusing to pay the Damages, &c. the same to be sold for the Payment thereof.

III. And

III. *And Whereas no Provision is made by the said Act for preventing any Rescue of Swine, Horses, Sheep, Goats, or Neat Cattle, Be it therefore Enacted, That if any Person or Persons shall rescue any Swine, Horses, Sheep, Goats, or Neat Cattle, from any Hogleave or other Person, driving such Swine, Horses, Sheep, Goats, or Neat Cattle, to the Pound, the Offender shall forfeit and pay for such Rescous, the Sum of Twenty Shillings, over and above all Damages that may be sustained by the Trespas of such Swine, Horses, Sheep, Goats, or Neat Cattle; which Penalty and Damages shall be recovered by the Oath of One credible Witness, before any One of His Majesty's Justices, and to be levied by Warrant of Distress, and Sale of the Offender's Goods and Chattels; and if any Person or Persons shall make any Breach of the said Pound, or shall by any other indirect Means, deliver any Swine, Horses, Sheep, Goats, or Neat Cattle, out of the same, the Person so offending, being duly convicted thereof before any Two of His Majesty's Justices of the Peace, shall forfeit and pay the Sum of Five Pounds, to be levied as aforesaid; and the said Penalties for every such Rescous and Pound Breach, shall be paid to the Church Wardens and Overseers of the Poor, for the Use of the Poor of the Town of Halifax, after deducting the Charges of repairing any Breach of the Pound.*

Persons rescuing
such Cattle, forfeit

20s. besides the
Damage done by
the Trespas,

and for every Pound
Breach, 5s.

to the Use of the
Poor.

IV. *And Whereas by the said Act it was also Enacted, That the Surveyors of Highways should cause the Streets, Lanes, and Highways of the Town and Suburbs of Halifax, to be mended at the Charge of the Proprietors of Lands bordering thereon, but no Provision is made, by the said Act, for rating and levying such Charges, Be it therefore Enacted, That if any such Proprietor shall not, within Fifteen Days Notice from the said Surveyors, cause such Part of the Streets, Lanes, and Highways, as border on his Lands to be levelled and repaired according to the Directions of such Surveyors, such Person shall forfeit and pay such Sum as shall be certified on Oath, by such Surveyors, to be necessary for such Levelling and Repairs; which Sum shall, on such Certificate, be levied by Warrant of Distress and Sale of such Proprietor's Goods and Chattels, to be issued by any One of His Majesty's Justices of the Peace; and when no Goods or Chattels are to be found, then and in such Case the Real Estate shall be liable.*

Proprietors to level
and repair such Part
of the Streets, &c,
as border on their
Lands, or to forfeit
such Sum as shall be
certified by the Sur-
veyors to be neces-
sary therefor.

Real Estate liable.

V. *Provided, That if any Person shall be rated by such Certificate, in any Sum exceeding Twenty Shillings, and shall think himself aggrieved, such Person may appeal to the next General Quarter Sessions of the Peace, which is hereby empowered finally to determine the same.*

Appeal to the Quar-
ter Sessions.

VI. *And be it further Enacted, That the Justices in their Quarter Sessions of the Peace, in all other Counties within the Province, shall be empowered, and are hereby directed, to make Regulations for*

Justices in Sessions
to make Regula-
tions in other
Counties.

preventing Trespasses, by Horses, Swine, Sheep, Goats, and Neat Cattle, going astray, in Manner as shall be most agreeable to the Circumstances of such County or Townships therein.

Vide further Additions to this Act, 1. Geo. 3. c. 10. & 15.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the Fourth Day of *December*, *Anno Domini* 1759, and in the Thirty Third Year of the Reign of Our Sovereign Lord GEORGE the Second of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Eighth Day of *September*, *Anno Domini* 1760, in the Thirty Fourth Year of His Majesty's Reign, being the Second Session of the Second GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for the making perpetual an Act made and passed in the 32d Year of His Majesty's Reign*, intituled, *An Act to prevent the Sale of Slop Cloathing, and for punishing the Concealers and Habourers of Seamen or Marines deserting from the Royal Navy.*

* Cap. 12.

Preamble.

†† viz. the Act named in the Title, 32. Geo. 2. c. 12.

W *HEREAS* the said Act † was made only to continue and be in force until the End of this present War; and whereas the said Law † has been found to be very useful and beneficial to the Public, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the said Act to prevent the Sale of Slop Cloathing, and for punishing the Concealers and Harbourers of Seamen and Marines deserting

Act made perpetual.

deserting from the Royal Navy, shall be, and the same is hereby made perpetual, any Proviso or Limitation in the said Act notwithstanding.

C A P. II.

An Act for the ascertaining Damages on protested Bills of Exchange.

E it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Second Day of October, One Thousand Seven Hundred and Sixty, all Bills of Exchange drawn from and after said Time, by Persons residing within this Province, upon Persons in Europe, that may be sent back protested, shall be subject to Ten per Cent. Damages, and Six per Cent. per Annum Interest, from the Day of the Date of the Protest on said Bill, to the Time of Payment. And be it also Enacted by the Authority aforesaid, that all Bills of Exchange drawn by Persons residing within the Province, after said Time, on Persons in the other Colonies, and sent back protested, shall be subject to Five per Cent. Damages, and Six per Cent. per Annum Interest, from the Day of the Date of the Protest to the Time of Payment.

Foreign Bills of Exchange.

Cro. Car. 301. Barnaby versus Regalt. 1. Vent. 45.

II. *And be it further Enacted by the Authority aforesaid, That all Bills and Orders drawn from and after the said Second Day of October next, by Persons residing within the Province on Persons living or residing in the same, that shall be protested, shall be subject to Six per Cent. Interest from the Date of the Protest to the Time of Payment.*

Inland Bills of Exchange.

Eng. Stat. 9. & 10. Will. 3. c. 17. Eng. Stat. 3. & 4. Ann. c. 9. made perpetual by 7. Ann. c. 25. Sect. 3. 1. Salk. 131. Bough versus Perkins.

C A P. III.

An Act to explain an Act made and passed in the 33d Year of His Majesty's Reign, intituled, An Act to enable Proprietors to divide their Lands held in common and undivided.

Repealed by His Majesty in Council.

C A P. IV.

An Act in Amendment of an Act, intitled, An Act for confirming Titles to Lands and Quieting Possessions *.

* 32. Geo. 2. c. 2.

Preamble.

W H E R E A S some Inconveniencies have already and frequently arise to the Purchasers of Lands in this Province; from the Difficulty of producing, before the Register or his Deputy, one of the Witnesses to the Execution of any Deed or Conveyance brought by them to be registred, either from such Deed or Conveyance having been executed in Great Britain or Ireland, or in some of His Majesty's Colonies or Plantations distant from this Province, in the Presence of Witnesses resident there, who cannot be produced before the said Register or his Deputy, to prove the Execution thereof on Oath; thereby preventing the due Registring of such Deed or Conveyance, agreeable to the Directions of an Act made and passed by the Governor, Council and Assembly of this Province, in the 32d Year of His Majesty's Reign †, intitled, "An Act for confirming Titles to Lands and quieting Possessions:" For Remedy whereof, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That from and after the Publication hereof, the Register of Deeds and Conveyances in this Province, or his Deputy, shall and may duly register, as directed by the aforesaid Act, all such Deeds and Conveyances of Lands in this Province, as shall have been made and executed in Great Britain or Ireland, or in any of His Majesty's Colonies or Plantations, distant from this Province, (tho' one of the Witnesses thereto should not come before him or his Deputy, to prove the same as directed by the said Act) *Provided* the Execution thereof shall appear to him, either to have been properly acknowledged by the Grantor himself named in such Deed or Conveyance, or be proved by the Oath of one of the subscribing Witnesses thereto, before some or one of His Majesty's Justices of the Peace of the Place where such Deed or Conveyance shall have been executed, and duly attested by him; and such Attestation being also authenticated (if in the Plantations) under the Hand and Seal of the Governor, Lieutenant Governor, or Commander in Chief of the Province, where the same shall be made, or of a Publick Notary there residing; and if in Great Britain, or Ireland, under the public Seal of some Corporation there, or by the Attestation and Certificate of some Notary Publick lawfully constituted, resident there, certifying that such Person so subscribing as a Justice of the Peace is really so, and that all Faith and Credit ought to be given to his Attestations.

† Cap. 2.

All Deeds, &c. to be registred, on Proof of the Execution thereof, either by the Acknowledgment of the Grantor, or by the Oath of one of the Witnesses, before a Justice of the Peace, where such Deeds &c. have been executed.

Vide further Additions to this Act, 1. Geo. 3. c. 3. & 5. Geo. 3. c. 8.

C A P. V.

An Act in Amendment of an Act, made and passed in *General Assembly*, at the Session begun and holden at *Halifax*, on the Second of October, 1758, intituled, *An Act relating to Wills, Legacies and Executors, and for the Settlement and Distribution of the Estates of Intestates.*

 W

 H E R E A S by an Act made and passed in GENERAL ASSEMBLY, at the Session begun and holden at Halifax, on the Second Day of October, 1758, intituled, "An Act relating to Wills, Legacies and Executors, and for the Settlement and Distribution of the Estates of Intestates," It is amongst other Matters Enacted, "That in Case that Personal Assets shall be deficient for the Payment of any Debts or Legacies, and it shall be found necessary by any Executor or Administrator, to make Sale of any Part of the Real Estate of the Deceased for the Payment of any Debts or Legacies, such Executor or Administrator shall apply to the General Assembly, to grant a Licence for the Sale of such Part of such Real Estate as may be most convenient, for the Payment of such Debts or Legacies; and before any Sale be made of any Real Estate, the Executor or Administrator shall give Thirty Days public Notice, by posting up Notifications in the most public Places, in the Town where the deceased Person last dwelt, and in the public Prints, if any such there be; and whoever will give most shall have the Preference in such Sale: And in Case the Estate of such Intestate shall be insolvent, the Executor or Administrator shall make like Application to the General Assembly for an Inquiry, and for the Appointment of Commissioners to enquire into such Insolvency, and to examine and settle the Claims of all Creditors, and the Amount of the Estate of such Insolvent, and to authorize such Executor or Administrator to sell all the Lands and Tenements of such Insolvent, and to divide the Produce of the Whole of such Estate, in due Proportion to and among the Creditors." And Whereas Inconveniences have already arisen, and may hereafter arise by the Delays hereby necessarily occasioned, during Intermittions of the Convention of the General Assembly, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That all such Applications as by the before recited Clause of the said Act, are to be made by any Executor or Administrator to the General Assembly shall, from and after the Publication hereof, be made to the Governor or Commander in Chief for the Time being, and His Majesty's Council of this Province, who are hereby authorized and empowered to take Cognizance thereof, and to proceed thereon in like Manner, as by the before recited Clause of the said Act, should have been done by the General Assembly.

Preamble.

By Prov. Act relating the Guardianship of Minors, 32. Geo. 2. c. 26. Sect. 9. Posthumous Children are intitled to Share in the Father's Estate.

Applications for the Sale of Real Estates, for Payment of Debts, &c.

to be made to the Governor and Council, instead of the General Assembly.

Executors to give
Security for a just
Distribution.

II. *And be it further Enacted*, That every Executor or Administrator, who may, by Virtue of this Act, be authorized and empowered to make Sale of any Real Estate, shall, before such Sale made, give Bond by himself, or his lawful Attorney, with Two Sureties, at the Office of the Register of the Court of Probates, in the County where such Real Estate shall lie, for the just and legal Distribution of the Monies arising from such Sale, in the full Value which, by the Report of the Commissioners for that Purpose appointed, shall be certified to be necessary to be raised by such Sale.

Lands, &c. sold by
Virtue of this Act,
to be the absolute
Property of the
Purchaser.

III. *And be it further Enacted by the Authority aforesaid*, That all Lands, Tenements, or Hereditaments, sold by any Executor or Administrator by Virtue of this Act, shall become the absolute and undoubted Right and Property of the Purchaser or Purchasers thereof, from and after the Time of such Sale.

C A P. VI.

An Act for Establishing a Public Market at the Market House in Halifax, and for regulating the same.

BE it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the Market House newly erected in the Town of Halifax, shall be open on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays, from Sun rise to One o'Clock in the Afternoon, and on Saturdays from Sun rise to Ten o'Clock at Night, for the Reception of all kinds of Butchers Meat, Poultry both alive and dead, Roots, Greens, Fruits, and other Vegetables, which may be brought for public Sale therein. The First Market Day to be held on Monday the Thirteenth Day of October next ensuing, and so to continue in Manner aforesaid.

The Market House
to be open from
Sun rise to One
o'Clock, every Day
in the Week, and
on Saturdays till
Ten o'Clock at
Night.

A Keeper to be ap-
pointed by the
Governor,

II. *And be it further Enacted by the Authority aforesaid*, That a proper Person shall be appointed by the Governor or Commander in Chief, to be Keeper of the said Market House, who shall open and shut the same at the Times herein appointed, and cause it to be kept clean, sweet, and in good Order: And the said Keeper is hereby impowered to let the Stalls, and to sue for, recover, and receive, from the Persons who shall occupy the same, the Monies arising from the Rents, agreeable to the several Rates herein after mentioned; which Monies he shall account for upon Oath, and pay to the Treasurer of the Province once every Three Months;

his Duty, and

and for his Services in this Office he shall receive a Salary not exceeding Forty Pounds per Annum.

Salary.

III. *And Whereas Disputes and Controversies do often arise in public Markets, which end in Quarrels and Frays; for preventing whereof as much as possible, Be it Enacted by the Authority aforesaid, That the said Keeper of the Market House shall be invested with all the Power and Authority of a Constable, in all Matters relative to the keeping Peace and Order in the said Market; and shall accordingly be sworn into that Office, before any Two of His Majesty's Justices of the Peace, or at the next General Sessions of the Peace for the County of Halifax, after his Appointment.*

Keeper to have the Power of a Constable.

IV. *And be it further Enacted, That every Person who shall hire One of the said Stalls by the Quarter or any longer Time, shall pay Quarterly to the Keeper at the Rate of Eight Pounds per Annum for the same; and those who shall hire any of the said Stalls for a shorter Space of Time, shall pay at the Rate of One Shilling and Six Pence per Day to the said Keeper; but live Poultry, Fruits, Greens, and other Vegetables, shall be exposed to sale on the Benches under the Piazza, Rent free.*

Rates for the Stalls.

Live Poultry &c. to be sold in the Piazza.

V. *And be it further Enacted, That the Persons exposing to Sale any Butchers Meat, Poultry, alive or dead, Roots, Greens, Fruit, or other Vegetables, as well within the said Market House, as without under the Piazza, shall constantly keep the same clean, sweet, and in good Order, to the Satisfaction of the said Keeper, on Penalty of forfeiting to the said Keeper the Sum of Two Shillings and Six Pence for each and every Neglect; and the said Keeper is hereby empowered immediately to demand the same, and in Case of Refusal, the same shall be levied by Warrant of Distress from any one Justice of the Peace, with Costs.*

Persons selling Meat, &c. to keep the House clean, on Penalty of 2s. 6d.

VI. *And be it also Enacted, That if any Person shall sell or expose to Sale, any of the before mentioned Commodities within the Town or Peninsula of Halifax, or on board of any Vessels in the Harbour thereof; until such Commodities shall have been first carried to the Market House, and there publickly exposed to Sale, during the Market Hours; or if any Person or Persons whatsoever shall presume to sell or expose to Sale, on board of any Vessel in the Harbour, or in any Shop, or Stall within the Town and Suburbs of Halifax, (other than in the said Market House) any Butchers Meat or other the Commodities above mentioned, during the Market Hours herein before appointed; he shall forfeit a Sum not exceeding Five Pounds for every such Offence; to be sued for and recovered before any Two of His Majesty's Justices of the Peace for the said County: One Moiety to be paid by the said Justices to the Treasurer of the Province, for the Uses of the Government, and the other Moiety to the Person or Persons who shall inform and sue for the same.*

Penalty of 5. for selling Meat, &c. out of the Market, before it has been brought there and exposed to Sale during Market Hours.

VII. *Provided*

Not to extend to Contractors for victualling the Army and Navy.

VII. *Provided always*, That nothing in this Act contained, shall debar the Agents or Contractors for Victualling his Majesty's Ships, and the Army, to import the necessary Provisions for fulfilling their respective Orders or Contracts, without exposing them to public Sale, as is herein before directed.

Application of the Money raised by the Rent of the Stalls.

VIII. *And be it further Enacted*, That all the Monies arising from the Rents of the said Market House, over and above the Keeper's Salary, shall be applied to the keeping the said Market House in proper Repair, under the Inspection of the Clerks of the Market for the Time being; and the Surplusage, if any be, is hereby granted to His Majesty, and shall remain in the Hands of the said Treasurer, to be applied in the first Place, for building a public Slaughter House, and thereafter for the Uses of the Town of *Halifax* only.

Vide an Addition to this Act, 6. Geo. 3. c. 2.

C A P. VII.

An Act for appointing Commissioners of Sewers.

WHEREAS great Quantities of Marsh, Meadows, and low Grounds, in this Province, and particularly in the Bay of Fundy, and Rivers, Bays and Creeks, branching therefrom, are spoiled by overflowing of the Sea, and other Waters, which by Industry may be greatly improved, as well for the General Good as for the Benefit and Profit of the Owners; and also much Meadow and Pasture Land might be gained out of Swamps, and other rough and unprofitable Grounds by drowning and draining the same: To the Intent therefore, that the new Settlers and other Proprietors of such Marshes, Meadows and low Grounds, may be encouraged and enabled to raise Dykes, and remove such Obstructions as prevent these Lands from being immediately useful, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That it shall be in the Power of the Governor or Commander in Chief, with the Advice of His Majesty's Council, upon Request of any of the Proprietors of such Lands, to grant Commissions of Sewers (a), to such and so many able and discreet Persons (b) as to them shall seem meet, for the building and repairing such Dykes and Wears as are necessary to prevent Inundations; and also for the damming and flowing of Swamps, and other unprofitable Grounds, and draining

Preamble.

Commissioners of Sewers to be appointed by the Governor and Council,

(a) *Eng. Stat. 23. H. 8. c. 5. Sect. 1.* Containing the Commissions issued in England under this Statute. Commission at Common Law, vide *Registr. Brev. 126. 127. F. N. B. 113. 114.*

Under the Commissions both at Common Law and by Statute, the Proceedings and Inquiries before a Court of Sewers, are by Juries.

(b) By *Eng. Stat. 13. Eliz. c. 9. Sect. 4. & 7.* Farmer of Lands chargeable not to be a Commissioner, but may act for other Lands.

of them: By which Commissions the said Commissioners shall be ^{their Power and Authority.} impowered to meet and convene together from Time to Time as Occasion may require, to view, consider, consult, and contrive such Ways and Methods for building and repairing such Dykes and Wears, as are necessary to prevent Inundations, and for the drowning and draining of Swamps, and other unprofitable Grounds; and to employ Workmen and Labourers, for such reasonable Wages as may be agreed on, for the effecting the Premises; and from Time to Time to assess and tax all such Persons as may or shall be Owners of such Meadows, Marshes, or such unprofitable Swamps and Lands as aforesaid, towards the Charge thereof, having Regard to each Person's Quantity of Land and Benefits to be received thereby, as equally, according to their best Judgment, as they can; and also to appoint and swear a Collector or Collectors for the collecting, gathering, and paying the same, to such Persons as by the said Commissioners shall be appointed to receive it; with Powers to distrain all such Persons as shall neglect or refuse to make Payment of his, her, or their Parts or Proportions, set and assessed as aforesaid, in such Manner as is usually done in the like Cases; and to call before themselves the said Collector or Collectors, to account for his or their Trusts with Reference to the Premises; and likewise to value such Repairs as may have been made to the said Wears and Dykes, ~~by the present Settlers before the Date of their said Commissions, and to proportion an Assessment for Payment of the same by those who have been or may be benefited thereby, in the same Manner as if such Repairs had been made by their own Order, in Virtue of their said Commissions.~~

1. Sid. 145.

II. *And be it further Enacted by the Authority aforesaid,* That the said Commissioners shall be sworn for the faithful Discharge of their Trust, and shall receive such Salaries out of the said Assessment, for their Time and Expences touching the Premises, as the Governor and Council shall appoint, unto whom the said Commissioners shall be accountable, when they shall be thereto required.

to be sworn and have Salaries.

III. *And be it further Enacted by the Authority aforesaid,* That in Case it shall so happen, That any Proprietor of any such Lands, Marshes, or Meadows, to be dyked and drained as aforesaid, shall be unable, or otherwise neglect to pay his, her, or their Part or Proportion of the said Rates or Assessments, it shall and may be lawful to and for the other Proprietors concerned therein, to pay the said Assessments, and to hold the said Lands and Meadows so long until the Rates and Profits to be received of those Lands may reimburse them, and the Commissioners aforesaid shall determine the Time how long (c).

Lands liable to Payment of Assessments.

(c) By *Eng. Stat. 23. Hen. 8. c. 5. Sect. 8.* The Lands may be sold for Non payment of the Assessments.

Appeal to the Governor and Council.

IV. *Provided always*, That any Person thinking himself aggrieved at any Procedure had or made by the said Commissioners, or any others in Pursuance of this Act, may appeal therefrom to the Governor and Council for Relief (*d*), who are hereby impowered to order the Possession of all such Lands as are held for Payment of the Assessments beforementioned, to be restored to the Proprietor on Proof before them, that the said Assessments have been received out of the Profits of the same.

Vide Additions to this Act 3. Geo. 3. c. 1. 2. Sess. under Geo. 3. c. 4.

(*d*) Proceedings of Court of Sewers removable into B. R. by *Certiorari*, 5. Co. Rep. 99, b. Rook's Case. 4. Inst. 276. Cro. Ja. 336. 3. Inst. 125. 1. Lev. 288. 1 Vent. 66. 1. Salk. 145.

C A P. VIII.

An ACT for encouraging the Improvement of Lands in the Peninsula of *Halifax*, and further quieting of Possessions.

Preamble.

WHEREAS great Inconveniences and Prejudices have arisen, on Account of not improving the Lands on the Peninsula of Halifax: And Whereas by the Absence of several Grantees, and the Neglect and Death of others, many of the Lots lie waste: In order therefore to encourage the Improvement of the Lands within the said Peninsula, Be it Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That in all Cases where the Grantees of Lands within the said Peninsula, have been Absent from the Province, or have lived therein, for the Space of Seven Years, and no Improvement made thereon for that Time; and likewise in such Cases where any Grantees of Lands are dead, and no Persons in Right of such Grantees have claimed said Lands (*a*); it shall and may be lawful, upon an Inquest of Office, on the Oaths of Twelve Men sworn for that Purpose, held before the Commissioner of Escheats and Forfeitures, according to the Commission to him granted *, and duly returned into the Office of Register of the Court of Chancery, for the Governor, or Commander in Chief for the Time being, with the Advice and Consent of His Majesty's Council, to make Grants

Lands within the Peninsula of *Halifax*, not improved for Seven Years past, may be granted by the Governor and Council.

* This Reference seems to establish the Commission in toto, and not for the particular Purposes of absent Grantees, &c.

(*a*) This Clause can have Respect only to Grants by Virtue of Registries (in Nature of Licences for Improvement in order to future Grants) but not to Grants by Record under Seal of Government, which must operate and be tried by the Terms of the Patents, and are not voidable by general Revocations or any Conditions not imposed by the Grants.

and Conveyances of such Lands so returned, which Grants and Conveyances shall be good valid, and effectual, to all Intents and Purposes whatsoever (b).

II. *Provided*, That it shall and may be lawful, for all Persons interested or intitled to such Lands as are comprized in said Office, to traverse the same, within Twelve Months from the Date of such Inquest. And if the said Office shall not be traversed within said Time, the Grant of said Lands, by Virtue of such Inquest, by the Governor or Commander in Chief, with Advice as aforesaid, shall be absolute according to the Form and Effect of such Grant (c).

Persons interested in such Lands may traverse within 12 Months, otherwise the Grant to be absolute.

III. *And Whereas it may be doubtful, whether the Registry of Lots of Land (granted simply as Lots without any formal Conveyance under the Seal of the Province) within the said Peninsula of Halifax, or elsewhere in this Province, import a Conveyance in Fee Simple to the Persons in whose Names the same are registred: For the quieting such Persons in their Possessions, Be it Enacted by the Authority aforesaid, That all and every Person, having a Right to claim by Virtue of such Registry, (excepting the Persons absent or neglecting to improve as aforesaid) (d), shall be intitled to a full and absolute Estate in Fee Simple, in the Lands so registred, any want of Form in the said Registry notwithstanding*.*

Registry of such Lands to be a Fee Simple.

(b) The King's Title to resume must appear by Office on Oath, by Record Ministerial before the Escheator &c. 4. Reu. 54. b. and by *Eng. Stat. 18. Hen. 6. c. 6.* Letters Patent granting Lands before the King's Title is found by Inquisition returned into Chancery, are void. Vide *E. g. Stat. 21. Jac. 1. c. 25.*

For the Nature of the Escheator's Office and the Writ to him *de inquirendo*, vide *F. N. B. 321. C. D. Reg. Brev. 165. a. & Eng. Stat. 8. Hen. 6. c. 16. 23. Hen. 6. c. 16. Stat. 1. 12. Ed. 4. c. 9. 1. Hen. 8. c. 8. & Co. Lit. 13. a. b. & 92. b.*

Vide 4. Inst. c. 43. pa. 225. intitled "Court of the Escheator and of Commissioners for finding of Offices, &c." & 4. Bac. Abr. C. L. pa. 154. b. Tit. *Prerogative, Letter B. Division. 2. Prerogative in Escheats*, where the Escheator's Office is considered as still subsisting for finding Offices by Enquest to vest Titles in the Crown, and not as an Officer useless by abolishing the Court of Wards and Liveries, by *Eng. Stat. 12. Car. 2. c. 24.*

(c) By *Eng. Stat. 1. Hen. 8. c. 10. Stat. 3.* After Office found before any Escheator, the Lands seized may be let to the Traverser. How Offices may be traversed, vide *Eng. Stat. 2. & 3. Ed. 6. c. 8. Stat. 6, 7, 13. & by Stat. 14.* after Judgment upon the Traverse, if it shall appear by Record that the King has any other Title, it shall be saved to the King.

(d) This Exception absolutely excludes Absences &c. from deriving in Fee Simple, by Virtue of any Registry, for so is the manifest design of the Act.

* This Institution is, by due Authority, deemed expedient as a Mode of short Process, and without Expence, for insuring the Crown to resume and grant Lands forfeited by Breach of Conditions.

C A P. IX.

An ACT in Amendment of an Act, intituled An Act relating to Treasons and Felonies†.

† 32. Geo. 2. c. 13.
Stat. 31. 32.

Preamble,

HEREAS by an Act, intituled An Act relating to Treasons and Felonies, it is amongst other Matters enacted, "That if any Person or Persons indicted of any Offence, for which they are excluded from the Benefit of Clergy, or of the said Act, shall challenge peremptorily above Twenty of the Jury, Judgment shall be pronounced and Execution awarded against such Person or Persons, as if such Person or Persons had been convicted of such Offence by Verdict or Confession." And Whereas it will be more agreeable to the common Course of Justice, to allow the Benefit of Defence and Trial, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That in all Cases where any Prisoner shall challenge peremptorily above Twenty of the Jury, such Challenge shall be overruled, and the Jurors shall be sworn for the Trial of such Prisoner, as if no such Challenge had been peremptorily made*.

If a Prisoner challenges above 20 Jurors, such Challenge to be overruled, and the Jury sworn.

* Co. P. C. 102: pa. 227, 228. 2. Hale's Hist. P. C. 270: adjudged, on Eng. Stat. 22. H. 8. c. 14. that Challenge above 20 shall be overruled.

C A P. X.

An ACT in Addition to and Amendment of an Act, intituled An Act for the better and more effectual Establishment of the Church of England in this Province.

Preamble.

HEREAS great Detriment and Inconvenience may arise to the Ministers of Saint Paul's Church in the Town of Halifax, as well as the Ministers of Churches, which may be hereafter established within this Province, for Want of sufficient Power to sue and recover from the Church Wardens, such Sum or Sums of Money, as they may have received from Time to Time, for the Use of said Ministers; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That the said Ministers shall be and are hereby empowered to sue for and recover from the said Church Wardens, all such Sums as they may have received, or shall neglect to sue for and recover, for the Use and Benefit of said Ministers.

Ministers may sue the Church Wardens for Money received by them, &c.

C A P. XI.

An Act for continuing an Act intituled, *An Act to prevent any private Trade or Commerce with the Indians.*

Repealed by His Majesty in Council.

C A P. XII.

An ACT for regulating the Common belonging to the Township of Lunenburg.

*W*HEREAS His Excellency the Governor has granted and set apart, a Tract of Land lying in the Peninsula of Lunenburg, to serve as a Common for the Inhabitants of said Town; And Whereas it is necessary, That some Regulations should be made by proper Persons, for the common Benefit of the said Inhabitants from Time to Time, as their Situation and Circumstances may require, Be it therefore Enacted by His Excellency the Governor, Council, and Assembly and by the Authority of the same it is hereby Enacted, That the Justices in their Quarter Sessions, to be next held in March for the said Town and County, shall give it in Charge to the Grand Jury then and there summoned, to affix and settle such Regulations, as they may think most proper and convenient to be observed and followed by the Inhabitants of Lunenburg; to continue for One Year, from such Session; and such Regulations as shall be approved of by the Justices of said Sessions, shall be and are hereby declared to be the stated Rules, to be kept, observed, and followed with Relation to the said Common, by the aforesaid Inhabitants, for and during the Space aforesaid.

Preamble,

Grand Jury, at March Sessions, to make Regulations for the Common, for One Year, to be approved by the Justices.

II. And be it further Enacted, That the said Justices shall, in the like Manner at their Annual Sessions, thereafter to be held in March, proceed and give in Charge to the Grand Jury in Manner aforesaid, and settle and approve of such Rules and Regulations for the said Common, to serve for the Year then next ensuing, as to them shall appear most proper and convenient.

The like to be done Annually at March Sessions.

III. And be it also further Enacted, That the said Justices shall be, and are hereby impowered to settle, and appoint such Pains and Penalties, to be inflicted upon the Person or Persons, who shall neglect or refuse to obey the Rules and Regulations so to be settled at the said Annual Sessions of the Peace, as to them shall appear to be just and equitable.

Justices to appoint Penalties for not obeying such Regulations.

IV. Provided, That such Pains or Penalties to be inflicted, shall not exceed the Sum of Forty Shillings each.

Not to exceed 40s.

C A P. XIII.

An A C T for building a publick *Slaughter House* in the Town of *Halifax*, and for regulating the same.

~~XXXX~~ *HEREAS* the killing of Cattle, Swine, and Sheep, within the Town of Halifax, by the Butchers at their Houses and Shops, is become a public Nuisance, occasioned by the Dung and Garbage being thrown into the Streets; Be it therefore Enacted by His Excellency the Governor, Council, and Assembly, and by the Authority of the same it is hereby Enacted, That there shall be erected and built a Slaughter House upon the Beach, set apart for that Purpose by his Excellency; which House, when built, shall be for the public Use of all People, who may have Cattle to kill for Sale at the public Market only; and His Excellency the Governor or Commander in Chief for the Time being, is hereby empowered to cause the said Slaughter House to be built, and of such Dimensions as to him shall appear to be of sufficient Extent, Usefulness, and Conveniency for the Purposes aforesaid.

Preamble.

A Slaughter House to be built for the use of Persons killing Cattle for Sale at the Public Market.

II. *And be it further Enacted*, That as soon as the said Slaughter House is finished, which shall be made public, no Cattle, Swine, or Sheep of any Kind, shall be killed within the Town and Suburbs of *Halifax* for public Sale, excepting at the said Slaughter House: And all Persons acting contrary hereunto, shall forfeit and pay a Sum not exceeding Twenty Shillings for every Beast so killed, to be levied by any One of His Majesty's Justices of the Peace, upon View of the same, or recovered by the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace for the said Town, for the Use of the Poor.

No Cattle &c. to be killed, except at such Slaughter House, on Penalty of 20s. for each Beast,

For the use of the Poor.

III. *Provided*, That nothing herein contained shall debar any Person or Persons, who have private Slaughter Houses situated upon the Water on any Wharf in the Harbour, from using their said Slaughter Houses, if upon Return made by the Keeper of the Market House, it appears at the next Quarter Sessions to be inoffensive to the Public.

Not to extend to Private Slaughter Houses already built upon the Water.

IV. *And be it also further Enacted*, That the Keeper of the Market House shall have the Care of the said Slaughter House, and shall visit the same at least thrice a Week; and shall cause the Persons who make use thereof to keep it clean and sweet, and to deprive such Persons, who shall refuse so to do, of the Use thereof until they comply therein; and shall also be empowered to sue any Person or Persons, from whom the Building may have suffered Damage, who shall be obliged to make sufficient Repairs of such Damage to his Satisfaction.

Keeper of the Market House to have the Care of the Slaughter House.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July*, Anno Domini 1761, and in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. being the First Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An A C T for the better Observacion and keeping of the LORD'S DAY.

BE it Enacted by the Honorable the Commander in Chief, the Council, and Assembly, in order that all Persons may, on the *Lord's Day*, apply themselves to Duties of Religion and Piety, both publickly and privately, no Tradesman, Warehouse Keeper, Shopkeeper, or other Person whatsoever shall, for the future, open his, her, or their Shop or Warehouse; or either by himself or herself, or by his or her Servant or Servants, Child or Children, sell, expose or offer to Sale, upon any Bulk, Stall, or Shed, or send or carry out, any Manner of Goods or Merchandize, on the *Lord's Day* or any Part thereof. *Provided nevertbeless*, that this Act shall not extend to prohibit any Persons from selling or exposing to Sale, Milk and Fresh Fish (*a*), before the Hour of Nine of the Clock in the Morning, and after Five of the Clock in the Afternoon on the said Day.

Eng. Stat. 29. Car. 2. c. 7.

No Tradesman, &c. to open his Shop or sell any Goods on the Lord's Day.

Milk and fresh Fish excepted.

II. *And be it further Enacted*, That no Person whatsoever for the future, shall do or exercise any Labour, Work or Business, of his or their ordinary Callings, or other worldly Labour, or suffer the same to be done, by his or their Servant or Servants, Child or Children, either by Land or by Water (*b*), (Works of Necessity and

No Labour to be done on the Lord's Day.

(*a*) By Eng. Stat. 29. Car. 2. c. 7. Sect. 3. & 10. & 11. Will. 3. c. 24. Sect. 14. Milk and Mackarel allowed to be sold on Sundays, before or after Divine Service.

(*b*) By Eng. Stat. 3. Car. 1. c. 2. Carriers or Drovers are expressly prohibited from travelling, and Butchers from killing or selling Meat on the Lord's Day.

The general Prohibition by this Clause of the Prov. Act seems to comprehend the Business of every Calling either by Land or Water, but *vide* 1. Stra. 702. *Rex versus Brotherton*.

Eng. Stat. 1. Car. 1.
c. 1.

Charity only excepted) or use or suffer to be used any Sport, Game, Play or Pastime, on the *Lord's Day* or any Part thereof; upon Pain, that every Person or Persons so offending in any of the Particulars beforementioned, upon Conviction hereof upon the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace of this Province, or upon View of any Justice of the Peace, for every such Offence shall forfeit, and pay the Sum of Ten Shillings.

Eng. Stat. 29.
Car. 2. c. 7. Sect. 3.

Tavern Keepers,
&c. to forfeit 10s.
for every Person
found drinking in
their Houses on the
Lord's Day.

III. *And be it further Enacted,* That no Tavern Keeper, Retailer of Spirituous Liquors, Vintner, or other Person keeping a public House of Entertainment within this Province, shall for the future on any Pretence whatsoever, entertain or suffer any of the Inhabitants or Town Dwellers of *Halifax*, or any of the Towns respectively where such Tavern Keepers, Retailers of Spirituous Liquors, Vintners, or other Persons keeping public Houses of Entertainment, respectively dwell, or others not being Strangers or Lodgers in such Houses, or such as come thither for necessary Dieting and Victualling only, to abide or remain in their Dwelling Houses; Out Houses, or Yards, drinking or idly spending their Time on the *Lord's Day*; but shall keep their Doors shut during the Time of Divine Service, on Penalty of forfeiting and paying the Sum of Ten Shillings, for every Person and Persons respectively so found drinking or abiding in such public Houses or Dependencies thereof as aforesaid; and every such Person or Persons, who shall be found so drinking or abiding in any such public House or Dependencies thereof as aforesaid, shall respectively forfeit and pay the Sum of Five Shillings.

Persons drinking,
&c. therein forfeit
5s.

* Can. 90.
Churchwardens,
&c. to walk
through the Town
in Time of Divine
Service, to suppress
Disorders.

IV. *And be it further Enacted,* That the Church Wardens* and the Constables, or any One or more of them, shall once in the Forenoon, and once in the Afternoon, in the Time of Divine Service, walk through the Town to observe and suppress all Disorders, and apprehend all Offenders whatsoever contrary to the true Intent and Meaning of this Act: And they are hereby authorized and empowered to enter into any public House of Entertainment, to search for any such Offenders, and in Case they are denied Entrance, they are hereby empowered to break open, or cause to be broke open, any of the Doors of the said House, and enter therein; and all Persons whatsoever are strictly required and commanded to be aiding and assisting to any Constables or other Officers in their Execution of this Act, on the Penalty of Ten Shillings Current Money for every Neglect.

Penalty for not at-
tending Divine Ser-
vice once in three
Months.

V. *And be it further Enacted,* That if any Person or Persons whatsoever, being of the Age of Twelve Years or upwards, being able of Body, and not otherwise necessarily prevented by real Sickness, or other unavoidable Necessity, shall for the Space of Three Months together, absent himself or herself from the public

blick Worship on the *Lord's Day*, shall be subject to a Fine, (*that is to say*) for every Head of a Family Ten Shillings, and for every Child or Servant Five Shillings, to be recovered, upon Complaint, before any One of His Majesty's Justices of the Peace, who is hereby impowered to cause the same to be levied (c).

VI. *All Fines and Penalties* incurred by this Act are to be to the Use of the Poor of the Town where such Offence is committed; and the Justice and Justices before whom any Person or Persons shall be convicted of offending against this Act, are required to make a Record thereof, in a Book to be kept by him or them.

Fines to be to the Use of the Poor.

VII. *Provided*, That no Person shall be prosecuted for any Offence beforementioned, unless they be prosecuted for the same within Ten Days after the Offence committed.

Prosecution in ten Days.

VIII. *And be it further Enacted*, That every Justice of the Peace shall have full Power and Authority, either upon his own View, or other legal Conviction of any Offender or Offenders against this Act or any Part thereof, to levy the Penalties herein before respectively mentioned, in Case the same shall not, upon such Conviction, be paid by the Offender or Offenders, by Distress and Sale of the Offender or Offenders Goods and Chattels with Costs; and in Default of Distress, to commit such Offender or Offenders to the common Gaol of the County, there to remain in close Confinement for a Time not exceeding Forty eight Hours, nor less than Twenty Four Hours.

Penalties to levied by Warrant of Distress from any Justice,

in-Default of Distress, the Offender to be committed.

IX. *And be it further Enacted*, That this Act shall be publicly read Four Times in every Year, *viz.* At the opening of every *Court of General Sessions of the Peace*, immediately after the Grand Jury are sworn: And also twice every Year, *viz.* On every First Sunday of December, and on every First Sunday in June, in all public Places of Worship within this Province, immediately after divine Service. *

Act to be read four Times a Year at the Sessions, and twice at Church.

(c) *Eng. Stat. 1. Eliz. c. 2. (Act of Uniformity)* shall not extend to qualified Protestant Dissenters, who repair to some Place of Religious Worship allowed by the Toleration Act 1. *Will. & Mar. c. 18. Sect. 16.* Vide Dr. Burn's *Eccl. Law*, 1. Vol. 601. and his Exposition of Sect. 8. and 16. of 1. *Will. & Mar. c. 18. & 6. Mod. 190.* Britton versus Standish. & Gibb. *Cod. Jur. Eccl. 521.*

* By *Eng. Stat. 29. Car. 2. c. 7. Sect. 6.* it is Enacted, "That no Person on the Lord's Day shall serve or execute any Writ, Process, Warrant, Order, Judgment, or Decree except in Cases of Treason, Felony, or Breach of the Peace: and that the Service of every such Writ, &c. shall be void; and the Persons executing the same shall be as liable to answer Damages as if they had done the same without any Warrant." *Cro. Car. 602. Prinfor's Case. 1. Mod. 56. 2. Salk. 625.* Before this Statute Attachments were granted for Arrests on Sundays, &c. Vide 2. *Inst. 264. Briton. c. 53. Mirr. c. 5. Sect. 1. Numb. 111.*
By *Eng. Stat. 5. An. c. 9. Sect. 3.* A Judge's Warrant to apprehend a Person escaped, &c. may be executed on the Lord's Day.

C A P. II.

An ACT in Amendment of an Act, intituled *An Act directing the Proceedings against forcible Entry or Detainer.*

Preamble.

HEREAS in the Act intituled An Act directing the Proceedings against forcible Entry or Detainer, no Provision is made for securing and maintaining the Inheritance and Title of Minors, Femes Covert, Persons Non Compos Mentis, imprisoned, or Absentees, Be it therefore Enacted by the Honorable the Commander in Chief, Council, and Assembly, That nothing in the said Act shall extend or be construed to extend to bar the Right of any Minor, Feme Covert, or Person *Non Compos Mentis*, imprisoned, or absent from the Province, but they shall be intituled to sue for, and recover any Lands or Tenements within the Province aforesaid, to which they are intituled, within Five Years after such Impediment shall be removed, any Thing in the said Act to the contrary in any wise notwithstanding.

Minors, &c. may recover Lands within five Years, after Impediment removed.

C A P. III.

An ACT in further Amendment of an Act, intituled *An Act for confirming Titles to Lands and quieting Possessions.*

Preamble.

HEREAS the Time allowed, by the Act intituled An Act for confirming Titles to Lands and quieting Possessions, to Femes Covert, Persons Non Compos Mentis, imprisoned, or in Captivity, to sue for Recovery of any Lands or Tenements within the said Province, to which they are intituled, has been deemed insufficient, nor is there in the said Act any Provision made for the Relief of Minors or Persons out of the Province; Be it therefore Enacted by the Honorable the Commander in Chief, Council and Assembly, That nothing in the said Act, nor any Thing therein contained, shall extend or be construed to extend, to bar the Title of any Minor, Feme Covert, or Person *Non Compos Mentis*, imprisoned, or absent from the Province, but they shall be intituled to sue for and recover any Lands or Tenements within the Province aforesaid, to which they are intituled, within Five Years after such Impediment shall be removed, any Thing in the said Act to the contrary in any wise notwithstanding.

Minors, &c. may sue within five years after Impediment removed.

Vide a further Addition to this Act, 5. Geo. 3. c. 8.

C A P. IV.

An A C T for the registring of Marriages, Births and Deaths.

OR preventing of great Uncertainty and Inconvenience, that may happen for Want of a Register of Marriages, Births and Deaths, Be it Enacted by the Honorable the Commander in Chief, Council and Assembly, That in every Township with-

in this Province, where no Parish shall be established, the Proprietors Clerks, who are hereby appointed Registers of Marriages, Births and Deaths, in their respective Townships, and who are hereby impowered and required to take an Account of all Persons that shall be married, or that shall be born or shall die, within each Township respectively, and fairly to register in a Book their Names and Surnames, as also the Names and Surnames of their Parents, with the Time of their being married, or of their Birth and Death; and the Register shall demand and receive the Fee of Six Pence, and no more, for each and every Registry by him so entered, to be paid by the Persons who shall be married, and by the Parents or other nearest of Kin to, or concerned with the Party born or dying. And if any shall refuse or neglect to give Notice to the said Register, of the Marriage by the Persons themselves, or of the Birth or Death of any Person that they are so related to or concerned for, or to pay for Registring as aforesaid, within the Space of Thirty Days next after such Marriage, Birth or Death; every Person so refusing or neglecting, and being (upon the Complaint of any Register) thereof convicted before One of His Majesty's Justices of the Peace within the same County, shall forfeit and pay unto such Register, the Sum of Five Shillings; to be levied by Distress and Sale of the Offender's Goods, by Warrant from such Justice, if Payment be not made within Four Days next after Conviction as aforesaid. And every such Register shall give forth from the Registry a fair Certificate under his Hand, of Persons married, born, or dying in the Township, to any who shall desire the same; and he shall receive One Shilling and no more, for every Certificate so given.

Preamble.

Proprietor's Clerk, in every Township where no Parish is established, to Register Marriages, &c.

Fee Six Pence.

Penalty 5s. on Persons not giving Notice of Marriages, &c. or refusing to pay the Clerk's Fee.

A Certificate to be given by the Clerk, when required.

II. *And be it also further Enacted,* That the Registry so kept, shall be sufficient Evidence in any Court of Record within this Province.

Registry to be Evidence.

CAP. V.

An ACT for preventing Damages by unseasonable burning, or Firing of the Woods.

Preamble.

HEREAS setting on Fire the Woods and Underbrush, in the dry Season of the Year, by spreading, has done much Damage in the burning Houses, Fences, Hay, &c. And Whereas in the present Situation of the new Settlements, it may be necessary that such Regulations should be made, as will be most convenient and useful for clearing the Lands with the least Risk, Be it therefore Enacted by the Honorable the Commander in Chief, Council, and Assembly, That the Justices in the several Counties within this Province, in their Quarter Sessions to be next held in March for the said Counties, shall give it in Charge to the Grand Juries, then and there summoned, to affix and settle such Regulations within their respective Counties, as they may judge most proper and convenient, to be observed and followed by the several Inhabitants within the said Counties, for preventing Damage by setting Fire to, and burning the Woods, Underbrush, or Marsh Lands at unseasonable Times, with as little Prejudice as possible to the clearing of Lands in the New Settlements. And such Rules and Regulations as shall be approved of by the Justices of the said Sessions, shall be, and are hereby declared to be the stated Rules to be kept, observed, and followed by the Inhabitants of the said several Counties, for and during the Space of Twelve Months thereafter.

Grand Jury, at March Sessions, to make Regulations, with the Approbation of the Justices, for preventing burning the Woods, &c

to be in force for Twelve Months.

The same to be done Annually.

II. *And be it further Enacted,* That the said Justices shall in like Manner at their Annual Sessions, thereafter to be held in March, proceed and give in Charge to the several Grand Juries in Manner aforesaid, and settle and approve of such Rules and Regulations for the Purposes aforesaid, to serve for the Year then next ensuing, as to them shall appear most proper and convenient.

Penalties to be settled by the Justices.

III. *And be it also Enacted,* That the said several Justices in their Quarter Sessions as aforesaid, shall be, and are hereby empowered, to settle and appoint such Pains and Penalties to be inflicted upon the Person or Persons, who shall neglect or refuse to obey the Rules and Regulations so to be settled at the said Annual Sessions of the Peace, as to them shall appear to be just and equitable.

Not to exceed £5.

Prosecution in three Months.

IV. *Provided,* That such pecuniary Penalties to be inflicted, shall not exceed the Sum of Five Pounds; and that the Prosecution for any Offence against this Act, be commenced and prosecuted within the Space of Three Months after the Offence committed.

C A P. VI.

An A C T to prevent the spreading of contagious Distempers.

*** E it Enacted by the Honorable the Commander in Chief, the
 * B * Council and Assembly, That every Vessel coming into the
 * * * Port of Halifax, having any Person on board infected with
 any Plague, Small Pox, Malignant Fever, or other contagious Distemper, shall anchor at least Two Miles below the Town of Halifax, towards the Sea, and on her anchoring shall hoist an Ensign with the Union downwards at the Main Top Mast Head; and the Master thereof shall not permit any of the Mariners or Passengers belonging to or coming in such Vessel, to land: And the said Master shall be obliged, within Twenty Four Hours after his Arrival, to give Notice thereof to the Governor, Lieutenant Governor, or Commander in Chief for the Time being, of the State, Condition, and Number of the Sick Persons on board his Vessel, and shall conform himself to such Orders and Directions as he shall receive from the Governor, Lieutenant Governor, or Commander in Chief, both for the performing Quarentine, for the Airing and Cleansing the Passengers, Vessel, and Goods on board, and for removing the infected and Sick Persons out of the said Vessel.

Masters of Vessels directed how to conduct themselves on their Arrival in the Port of Halifax, having Persons on board infected with any contagious Distemper.

II. And be it further Enacted, That before any such sick or infected Persons be put on Shore, the Master of such Ship or Vessel shall give Security for the Payment of the Charge of removing them on Shore, and also for the necessary Refreshments, Medicines, and Attendance, which shall be ordered and directed by the Governor, Lieutenant Governor, or Commander in Chief:

and to give Security for paying the Charges of removing them; &c.

III. And be it further Enacted, That any Master or Masters of any Vessel or Vessels, who shall not conform themselves to the Rules and Directions prescribed by this Act, shall be liable to pay a Fine not exceeding One Hundred Pounds, on due Conviction thereof, to be recovered by Bill, Complaint, or Information, in any of His Majesty's Courts of Record.

Penalty £100. for not conforming to this Act.

IV. And be it further Enacted, That for the preventing any infectious Distempers from being brought into, and spreading in any of the other Towns within this Province, any One or more Justices of the Peace, residing within or nearest to such Town within this Province, where any Vessel infected with the Small Pox or Infectious Distemper, shall arrive, shall forthwith take care to prevent and restrain all Persons belonging to or transported in such Ship or Vessel, from coming on Shore; or if any be before on Shore, to send them on board again; as also to restrain Persons from going on board such Ship or Vessel, and to that End may make out a Warrant directed to the Constable of

Powers of Justices of the Peace at other Towns.

any such Town, who are accordingly impowered and required to execute the same; and such Justice or Justices are forthwith to transmit the Intelligence thereof, to the Governor, Licutenant Governor, or Commander in Chief, for their Direction and Order thereon.

C A P. VII.

An ACT for the Amendment of an Act intituled, *An Act concerning Marriages and Divorce, and for punishing Incest and Adultery, and declaring Polygamy to be Felony* *.

* 32 Geo. 2. c. 17.

PREAMBLE. *W*HEREAS by a Clause in an Act made and passed in the Thirty Second Year of His late Majesty's Reign, intituled An Act concerning Marriages and Divorce, and for punishing Incest and Adultery, and declaring Polygamy to be Felony *, it is Enacted, " That no Marriage shall be declared null and void, except for the Cause of Impotence, or of Kindred within the Degrees prohibited in an Act made in the Thirty Second Year of King HENRY the Eighth intituled, *An Act concerning Precontracts, and touching Degrees of Consanguinity*; and that no Decree for Divorce shall be granted for any other than the two foregoing and the two following Causes, viz. That of Adultery, and that of wilful Desertion and withholding necessary Maintenance for Three Years together; in any of which Cases every Person suing for a Divorce, shall be intituled to a Decree for that Purpose, to be obtained from the Governor, or Commander in Chief for the Time being, and His Majesty's Council, who shall have full Power and Authority to grant the same." Which Clause has been found to be inconsistent with the Laws of England †, Be it therefore Enacted by the Honorable the Commander in Chief, the Council and Assembly, That the Causes for which Marriages shall be declared null and void, shall be in all Causes of Impotence, of Precontract and Kindred within the Degrees prohibited in an Act made in the Thirty Second Year of King HENRY the Eighth, intituled, *An Act concerning Precontracts, and touching Degrees of Consanguinity*, of Adultery, and of Cruelty, and for none other Causes whatsoever.

Preamble.

* Cap. 17.

Causes of Divorce.

† By the Laws of England. the Causes of Divorce, dissolving the Bond of Marriage are, Precontract, Impotence, Consanguinity, Affinity, & *Causa Meius ante Nuptias*; which being precedent Impediments, the Marriage was a Nullity, & *ab Initio* void. Adultery and Cruelty being subsequent to the Marriage, tho' they are proper Causes for temporary Separation à *Mensâ & Thoro*. yet they do not affect the Validity of the Marriage, and consequently cannot, as in themselves, dissolve à *Vinculo Matrimonii*, nor can such Divorce bar the Wife of Dower, or bastardize the Children. Co. Lit. 235. a. The principal Ground of Amendment by this Act seems to have been, the Permission of Divorce for wilful Desertion, &c. as not agreeable to the Laws of England, for this Cause is now omitted by the Act, and all the other Causes are, as in the former Act, inserted.

II. Provided

II. *Provided*, That nothing herein contained, shall be of any Force or Effect until His Majesty's Pleasure shall be further known herein.

Act suspended till His Majesty's Pleasure be known.
Confirmed by His Majesty in Council.

C A P. VIII.

An A C T to enable Creditors to receive their just Debts, out of the Effects of their absent or absconding Debtors.

Be it Enacted by the Honorable the Commander in Chief, the Council, and Assembly, That it shall and may be lawful for any Person intituled to any Action for any Debts, Dues or Demands whatsoever, against any Person absconding or absent out of this Province, to cause the Goods and Estate of such absconding or absent Person to be attached, in whose Hands or Possession soever the same are, or may be found: And the Attaching of any Part thereof shall secure and make the Whole, that is in such Person's Hands, liable in the Law to respond the Judgment to be recovered upon such Process, if so much there be, and no further, and shall be subjected to be taken in Execution for Satisfaction thereof, or so far as the Value thereof will extend, and the Person in whose Hands they are shall expose them accordingly.

Goods and Estate of absconding Debtors may be attached, and

subject to Execution.

II. *And be it further Enacted*, That where no Goods or Effects of such absent or absconding Person in the Hands of his Attorney, Factor, Agent, or Trustee, shall be exposed to view, or can be come at so as to be attached, it shall and may be lawful to and for any Person intituled to any such Action as aforesaid, to file a Declaration against such absent or absconding Person, in the Clerk's Office of the *Inferior Court of Common Pleas* in the same County where such Factor, Agent, or Trustee lives, therein particularly setting forth his Debt and Damage, how and for what Cause it arises; and to cause the Attorney, Factor, Agent or Trustee, of such absent or absconding Person, to be served with a Summons out of the Office, annexed to the said Declaration, Fourteen Days before the Sitting of the Court, for his Appearance at such Court; which being duly served, and Return thereof made under the Officer's Hand, shall be sufficient in the Law to bring forward a Trial, without other or further Summons, unless the Principal be an Inhabitant, or hath for sometime had his Residence within this Province, in which Case a like Summons with an attested Copy of the Declaration annexed, shall also be left at his Dwelling House, Lodging or Place.

Agent, &c. of an absconding Debtor to be summoned to Court,

Process and Trial thereupon.

Place of his last and usual Abode, Fourteen Days before the Sitting of the Court; and such Attorney, Factor, Agent, or Trustee, upon his Desire, shall be admitted to defend the Suit on behalf of his Principal throughout the Course of the Law, and an Impar- lance shall be granted of Course at two Terms successively, that he may have an Opportunity to notify his Principal thereof; and at the third Term, without special Matter alledged and allowed in Bar, Abatement, or further Continuance, the Cause shall peremp- torily come to Trial; and if Judgment be rendered for the Plain- tiff, all the Goods, Effects or Credits of such absent or absconding Person, in the Hands of such Attorney, Factor, Agent or Trus- tee, which were in his Hands at the Time of his being served with the Summons and Declaration aforesaid, to the Value of such Judg- ment, (if so much there be) shall be liable and subjected to the Execution granted upon such Judgment, for or towards satisfying the same; and from the Time of serving the Summons as aforesaid, shall be liable and secured in the Law, in his Hands to answer the same, and may not be otherwise disposed of or converted.

Goods, &c. in Agent's Hands sub- ject to Execution.

Plaintiff to be Non- suit, where no Ef- fects in supposed Agent's Hands,

III. *Provided nevertheless, and be it Enacted,* That if upon Sum- mons being served as aforesaid, the supposed Attorney, Factor, A- gent, or Trustee, shall come into Court at the First Term, and declare that he had not in his Hands, at the Time of the Service of such Summons, any Goods, Effects, or Credits whatsoever of the absent or absconding Person, and shall submit to an Examination upon Oath respecting the same; and if, upon such Examination, it shall appear to the Satisfaction of the Justices of the Court, that he had not any Goods, Effects, or Credits whatsoever of the absent or ab- sconding Person, in his Hands at the Time of his being summoned as aforesaid, then in every such Case, the Plaintiff shall become Nonsuit, and shall pay to him who was summoned as Attorney, Factor, Agent, or Trustee, his reasonable Costs, to be taxed in common Form by the Justices of the Court.

and to pay Costs.

Agents, &c. not appearing, liable to pay Costs.

IV. *And be it further Enacted,* That if any Attorney, Factor, A- gent, or Trustee, being served with Summons and Declaration as aforesaid, shall not appear at the first Term, and then either ac- knowledge himself to have had in his Hands some Goods, Effects, or Credits of the absent or absconding Person at the Time of the Service aforesaid; and thereupon pray that he may be admitted to defend the Action, or otherwise submit himself to an Examination upon Oath as aforesaid, he shall be liable to pay to the Plaintiff all such Costs as shall arise upon his Suit, to be taxed by the Justices of the Court before which the Action shall be brought.

Execution to be levied on the Agent's proper Goods, &c. if he transfer, &c. the Effects of his Prin- cipal.

V. *And be it further Enacted,* That in Case any Attorney, Fac- tor, Agent, or Trustee, from and after the Time of his being ser- ved with Summons and Declaration as aforesaid against his Principal, (being an absent or absconding Person) shall transfer, remit, dis- pose of, or convert any of the Goods, Effects, or Credits of such absent

absent or absconding Person, in his Hands at the Time of such Service, so that there shall not be sufficient to satisfy the Judgment, (the Debt being afterwards ascertained by Judgment of Court) or that shall not discover, expose, and subject the Goods, Effects, or Credits, of such absent or absconding Person in his Hands, to be taken in Execution for or towards the Satisfaction of the Judgment, so far as what were in his Hands at the Time of said Service, will extend, shall be liable to satisfy the same of his own proper Goods and Estate, and as of his own Debt; and a Writ of *Scire facias* may be taken out of the same Court and served upon him as the Law directs, to appear and shew Cause (if any he have) to the contrary, where upon Default of Appearance, or Refusal to disclose upon his Oath, (which Oath the Justices of such Court are empowered to administer) what Goods, Effects or Credits of the absent or absconding Person, are in his Hands, and to what Value; then Judgment shall be entered up against him of his own proper Goods and Estate, and Execution be awarded accordingly.

Agent to discover, upon Oath, the Goods, &c. of his Principal, on Failure Judgment to be entered against him of his own proper Estate, &c.

VI. *Provided nevertheless, and be it Enacted*, That if it shall appear that the Attorney, Factor, Agent, or Trustee, so summoned as aforesaid, and having in his Hands at the Time of such Summons, any Goods, Effects, or Credits of the absent or absconding Person, hath not any ways remitted, disposed of, or any ways converted the same after the Summons being served on him as aforesaid; but that he hath discovered, exposed, and subjected them to be taken in Execution, to satisfy the Judgment recovered against the absent or absconding Person as aforesaid; then the Party who commenced the Suit shall pay such Attorney, Factor, Agent, or Trustee, his reasonable Costs, to be taxed in common Form by the Justices of the Court from which the *Scire facias* issued as aforesaid.

Agent to be allowed his Costs, upon discovering the Effects, &c. of his Principal, and subjecting them to satisfy the Judgment.

VII. *And be it further Enacted*, That the Goods, Effects, or Credits, of any absent or absconding Person, so taken as aforesaid by Process and Judgment of Law, out of the Hands of his Attorney, Factor, Agent, or Trustee, by any of his Creditors, shall fully acquit and for ever discharge such Attorney, Factor, Agent, or Trustee, his Executors, or Administrators, of, from, and against all Actions and Suits, Damages, Payments, and Demands whatsoever, to be asked, commenced, had, claimed, or brought by his Principal, his Executors, or Administrators, of and for the same; and if any Attorney, Factor, Agent, or Trustee, shall be molested, troubled, or sued by his Principal for any Thing by him done in pursuance of this Act, he may plead the general Issue, and give this Act in Evidence.

Agent to be acquitted and discharged from any Action of his Principal.

Principal intitled
to a Rehearing
within three Years.

VIII. *Provided nevertheless, and be it further Enacted,* That any absent or absconding Person, against whom Judgment shall be recovered as aforesaid, shall be intitled to a Rehearing of such Cause at any Time within Three Years after such Judgment; and the Plaintiff in such Action, before any Execution shall issue on such Judgment, shall give sufficient Security to the Satisfaction of the Court, for the Repayment of all such Monies as may be levied by Virtue of such Execution, in case the said Judgment should be reversed on such Rehearing as aforesaid.

Part of this Act
only to take place,
till His Majesty's
Pleasure be
known.
*Confirmed by His
Majesty in Council.*

IX. *Provided always,* That so much of this Act only as relates to the commencing of the Action, and attaching the Goods, shall be of Force, till his Majesty's further Pleasure be known therein.

C A P. IX.

An Act for the Appointment of *Sworn Gaugers*, ascertaining their Duty, granting them an Allowance, and establishing their Fees.

Two Gaugers to
be appointed at
Halifax.

Be it Enacted by the Honourable the Commander in Chief, the Council, and Assembly, That it shall and may be lawful for His Excellency the Governor, Lieutenant Governor, or Commander in Chief for the Time being, to appoint two Gaugers for the Port of *Halifax*, who shall be sworn to the faithful Discharge of their Duty, and who are hereby authorized to gauge all Rum or other distilled Spirituous Liquors which shall be imported into, or distilled within the same, and shall perform all such gauging by the Instrument commonly called and known by the Name of Gunter's Callipers, and no other Instrument whatsoever; and who shall have an Allowance not exceeding Twenty Five Pounds per Annum each, to be paid out of the Duties arising on Rum, or other distilled Spirituous Liquors imported into, or distilled within this Province; and it shall and may be lawful for the said Gaugers to demand and receive the following Fees.

Salary £25. per An.
each.

Their Fees:

For gauging a Puncheon or Pipe	—	—	Six Pence.
A Hoghead or Tierce	—	—	Four Pence.
A Barrel	—	—	Two Pence.

and other Cask in Proportion, and no more, to be paid by the Seller.

The same Fees at
the Out Ports, and
6d. per Mile for
Travel.

II. *Be it further Enacted,* That for every other Port or Town within this Province, where no Distilling House is erected, and where it may be necessary for a Gauger to be appointed, the said Gauger

Gauger shall be intitled to receive the same Fees, as is herein before established for the Port of Halifax, with a further Allowance of Six Pence a Mile for his Travel.

III. *And be it further Enacted*, That if any Gauger to be appointed as aforesaid, shall neglect to attend upon due Notice given for the gauging any Rum, or other distilled Spirituous Liquors imported into, or distilled within the Province, shall forfeit and pay for every such Neglect the Sum of Five Pounds with Costs, upon Conviction thereof by the Oath of One credible Witness before any Two of His Majesty's Justices of the Peace, to be recovered by Warrant of Distress from under the Hand and Seal of said Justices, one Moiety whereof to be paid to the Person who shall inform and sue for the same, the other Moiety to the Overseers of the Poor, for the Uses of the Poor of the Town where such Offence shall be committed.

Penalty £5. on any Gauger neglecting his Duty.

IV. *Provided always, and it is hereby further Enacted*, That no Fees shall be demanded by the Gaugers as aforesaid, for gauging any Stock of Rum, or other distilled Spirituous Liquors made up at the Distilling Houses within this Province.

No Fees to be taken at the Still Houses.

C A P. X.

An Act in Addition to an Act intitled, *An Act in Addition to an Act intitled, An Act for preventing Trespasses*†.

† 33. Geo. 2. c. 14.

HERE AS in and by an Act made and passed in the 33^d Year of His late Majesty's Reign, intitled An Act in Addition to an Act intitled, An Act for preventing Trespasses*, it is among other Things enacted, "That the Justices in their Quarter Sessions in all other Counties, (Halifax excepted) within this Province, shall be impowered and are hereby directed to make Regulations for preventing Trespasses, by Horses, Swine, Sheep, Goats and Neat Cattle, in manner as shall be most agreeable to the Circumstances of such County, or Townships therein." But no Penalty is therein mentioned to be inflicted on such as shall transgress such Regulations made as aforesaid; Be it therefore Enacted by the Honourable the Commander in Chief, the Council and Assembly, That any Person transgressing such Regulations so made by the Justices in the Sessions as aforesaid, for the preventing of Trespasses as aforesaid, shall be subject to a Fine not exceeding Forty Shillings; to be recovered, on Complaint or Information, before any Two of His Majesty's Justices of the Peace for the County wherein the

Preamble.

* c. 14.

Persons transgressing Regulations made at Sessions subject to a Fine not exceeding 40s.

the Offence shall be committed, or before the Sessions in said County.

Vide a further Addition to this Act, 1. Geo. 3. Cap. 15.

C A P. XI.

An Act for the Relief of the Poor of the Town of *Halifax*, and indigent Persons in the new Settlements.

Preamble.

*W*HEREAS it has been represented to the General Assembly, that by Reason of the great Drought of the present Season, which is likely to shorten the expected Crops, and other Causes and Accidents, many poor People of the New Settlements will be in imminent Danger of the want of Bread Corn. And Whereas there are sundry Necessaries still wanting for the Work House at Halifax, as well as for the Support of such poor People in Town as are proper Objects of Charity, altho' not fit to be sent to a Work House. And Whereas the present State of the Province Funds will not admit of affording the necessary Supplies, without injuring such Persons as have large demands for Bounties, Premiums, and Debts contracted by the Government, that hitherto remain unpaid: Be it therefore Enacted by the Honourable the Commander in Chief, Council and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, be and is hereby impowered to borrow a Sum of Money, not exceeding Eight Hundred and Fifty Pounds, of the present Currency, on the Credit of the Province Funds; Seven Hundred Pounds whereof to be applied for purchasing Grain for the Relief of such Poor in the said new Settlements as may be in real want thereof, for their Support during this ensuing Winter; and the remaining One Hundred and Fifty Pounds to be applied for purchasing a Loom and Copper, and for digging a Well and building an Oven at the said Work House, and the Residue for supporting such of the Necessitous Poor in the Town of *Halifax* and its Suburbs, as are not in a Condition to be sent to the said Work House, and to be under the Direction and Management of the Overseers of the Poor for the Time being.

£350. to be borrowed on the Credit of the Province Funds.

£700. to purchase Grain for the Poor in the New Settlements,

£150. for the Use of the Workhouse, and the Poor at Halifax.

To be repaid with lawful Interest.

II. *And be it further Enacted*, That any Sum so borrowed, not exceeding the said Sum of Eight Hundred and Fifty Pounds as aforesaid, shall be paid back to the Lender or Lenders thereof, at the Expiration of One Year compleat from the Date of such Loan, with lawful Interest to the said Time of Payment, and thereafter till paid, by the Treasurer or Keeper of the Province Funds for the Time being, if any Monies shall then remain in his Hands after paying the several Bounties and Premiums, and other Debts already contracted by the Government for Public Buildings or otherwise; and in case no Surplus shall remain in the Treasury, when the borrowed Money aforesaid shall become due, the same shall be

paid

paid with Interest as aforesaid, out of the then growing Duties on Wines, Beer, Rum, and other distilled Spirituous Liquors.

III. *And be it further Enacted*, That no Person in the New Settlements shall be intitled to receive any Share or Part of the aforementioned Bounty of Grain, for the Support of themselves or their Families, until Oath shall first have been made before a Magistrate, that he or she cannot possibly subsist themselves or Families without Relief; which Oath shall be certified by the Magistrate before whom the same shall be made, to the Person or Persons who shall be charged by the Governor, Lieutenant Governor, or Commander in Chief, to distribute the said Grain.

No Persons in the New Settlements to be relieved, unless they make Oath that they cannot subsist without such Relief.

C A P. XII.

An Act for prohibiting the Exportation of *Raw Hides, Sheep or Calf Skins*, out of this Province, other than for *Great Britain*; and to prevent the Cutting, Splitting or Flawing of Hides.

*** *HERE AS the Exportation of Raw Hides, Sheep and Calf Skins out of this Province, except to Great Britain, has been found to be a great Prejudice to the same; Be it therefore Enacted by the Honorable the Commander in Chief, Council, and Assembly*, That from and after the Tenth Day of August, 1761, no Person or Persons shall load on board any Ship or Vessel for Exportation, any Raw Hides of any Ox, Bull, Steer or Cow, or any Sheep or Calf Skin, before the Master of such Ship or Vessel shall have given Bond to the proper Officer at *Halifax*, or at any other Port within the Province to such Person as shall be appointed for that Purpose, in the Value of One Hundred Pounds Currency, with sufficient Security that the same shall be by the said Ship or Vessel carried to *Great Britain* and to no other Place, and be there landed and put on Shore (the Danger of the Seas only excepted) and shall within Twelve Months, return a Certificate that the same have been so landed: And if any Person shall presume to lade on board any Ship or Vessel any Raw Hides or Skins as aforesaid, before Bond be given as aforesaid, he shall forfeit the same, and the Master of the Vessel shall forfeit the Value of such Raw Hides as shall be found on board such Vessel, and if any Ship or Vessel shall carry out of this Province such Hides or Skins as aforesaid, before Bond be given as aforesaid, or any Seizure made, every Master of such Ship or Vessel shall forfeit and pay double the Value of the same, and the Shipper treble the Value of the Hides or Skins so shipped.

Preamble.

No Raw Hides, &c. to be loaded on board any Vessel, until Bond be given that the same shall be landed in Great Britain,

On Penalty of being forfeited.

Penalty on Masters of Vessels carrying the same out of the Province.

Prosecution to be
within Twelve
Months.

II. *Provided*, That Information, Suit, or Prosecution on the same, be had or made within the Term or Space of Twelve Months next after the Offence committed.

Exception when
under Three Half-
pence *per* Pound.

III. *Provided also*, That when the Current Price of Raw Hides, such as of Ox, Bull, Steer, or Cow, shall be under Three Half Pence *per* Pound, the same may be exported to any of His Majesty's Plantations.

Penalty 20s. for
Gashing &c. the
Hide of any Ox,
&c.

IV. *And be it also Enacted*, That if any Butcher or other Person whatsoever shall by himself or any other Person employed by or under him or them, gash, cut, split, or flaw the Hide of any Ox, Bull, Steer, Cow, Sheep, or Calf, in fleaing thereof or otherwise, whereby the same shall be impaired or damaged, and offer the same to Sale, such Butcher or other Person so offending shall forfeit and pay the Sum of Twenty Shillings, for each and every such Offence committed by them, or any other Person employed by or under him or them.

How Penalties are
to be recovered,

V. *And be it further Enacted*, That the several Fines and Forfeitures incurred by this Act, shall be recovered on the Oath of One credible Witness in Manner following, (*that is to say*) That for exporting Raw Hides, Calf or Sheep Skins, contrary to the Tenor of this Act, by Bill, Plaint, or Information, in any of His Majesty's Courts of Record in this Province, One Half thereof to be paid to the Treasurer of the Province for the Use of His Majesty's Government in said Province, the other Half to him or them that shall inform and sue for the same; and the Penalty for cutting, splitting, or flawing Hides, to be recovered before any One of His Majesty's Justices of the Peace, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of the Justice before whom the Conviction of the said Offence is made, and for Want of Distress to suffer Twenty Days Imprisonment; and that One Half of said Penalty be paid to the Informer or Person suing for the same, and the other Half to the Poor of the Place where the Offence shall be committed.

and applied.

C A P. XIII.

An Act for ascertaining the Times and Places for the Holding of the *General Quarter Sessions of the Peace*, and the *Inferior Courts of Common Pleas*, for the Counties of *Lunenburg*, *King's County*, and *Annapolis*.

E it Enacted by the Honourable the Commander in Chief, the Council, and Assembly, That the General Quarter Sessions of the Peace, and the Inferior Courts of Common Pleas, for the County of Lunenburg, shall be held in the Town of Lunenburg, on the first Tuesday of the Months of February, May, August, and November, annually: For King's County, in the Town of Horton, on the Third Tuesday of the Months of February, May, August, and November, annually: And for the County of Annapolis, in the Town of Annapolis, on the Third Tuesday of January, April, July, and October, annually.

Places and Times appointed for holding the Quarter Sessions and Inferior Courts, for Lunenburg, King's County, and Annapolis.

C A P. XIV.

An Act for the Repairing and Mending *Highways, Roads, Bridges, and Streets*, and for appointing *Surveyors of Highways*, within the several Townships in this Province.

E it Enacted by the Honourable the Commander in Chief, the Council and Assembly, That the Grand Juries at the General Quarter Sessions of the Peace, held for the several Counties, next after the First of January, shall annually elect, nominate, and choose two discreet and fit Persons to be Surveyors of Highways for each Town in the respective Counties, who shall be sworn to the faithful Discharge of their Office 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, for which such Surveyors shall be chosen; and any Person being so nominated and chosen, who shall refuse to accept of the said Office, or shall neglect to be sworn as aforesaid, within Fourteen Days next after such Nomination, or having accepted shall neglect his Duty, shall forfeit for every Refusal or Neglect, Five Pounds, to be recovered by Bill, Plaint, or Information, in any of His Majesty's Courts of Record; and the Forfeiture shall be applied for the Repairing of the Highways.*

Two Surveyors of Highways for each Town to be chosen at the Quarter Sessions next after the 1st January Annually.

Persons refusing to serve &c. forfeit £5.

* Eng. Stat. 3. & 4. Will. & Mar. c. 12. Directs the Manner of appointing Surveyors of the Highways in England, who must survey and present on Oath, to some Justice of the Peace, &c. the State and Condition of the Highways, &c.

Each Person's Proportion of Labour to the Highways, &c.

Penalty for Neglect of Labour.

II. *And be it further Enacted,* That every Person within each Township keeping any Cart, Team, or Truck, shall send on every Day appointed by the said Surveyor of Highways, One Cart or Team, or Truck, with Two Oxen or Two Horses, and One able Man to drive the same, for Four Days in every Year, to work on the Highways, Roads, Streets, or Bridges, allowing Eight Hours to each Day's Work; and such Person not attending or neglecting to perform the said Duty, shall forfeit for every Day's Neglect, Ten Shillings; and that every other Householder or Labourer, not being an hired Servant for a Year, shall, on every Day appointed as aforesaid, either by himself or other sufficient Person to be hired by him, provided with such necessary Implements as shall be directed by the said Surveyor, work for the Space of Six Days in every Year, on the said Highways, Roads, Streets, or Bridges, within the Township where they respectively dwell; and such Persons not attending or neglecting to perform the said Duty, shall forfeit Three Shillings for every Day's Neglect; and any One of the Justices of the Peace within the County where the Offence is committed, is hereby impowered, on Complaint made to him by the said Surveyor of Highways, to summon the Person so neglecting, and upon his Non Appearance, Refusal, or Neglect to pay the Forfeiture, shall levy the same by Warrant of Distress; and the Money so levied shall be immediately paid into the Hands of the Surveyor for the Repairs of the Highways.

Constables to make out Lists of Persons liable to Labour on the Highways &c.

and deliver the same to the Surveyors.

III. *And be it further Enacted,* That the Constables of the several Townships in this Province, shall make out a List of all such Persons who are Owners of Teams, Carts, or Trucks, as also of every other Householder and Labourer within their respective Townships; and shall in Writing (making an equal Division) set out to the Surveyors of Highways, the several Roads, Highways, and Streets, on which each of them shall respectively labour; and deliver also a List, signed by them, of such Persons as shall live within the District wherein such Highways, Roads, or Streets, are allotted to each of them, to be employed by them respectively, and who accordingly shall be reputed to be the Persons obliged by this Act to Labour.

Labour on the Highways to be done between the 1st of April and the 1st of November, Yearly.

Surveyors excused from Labour.

IV. *And be it further Enacted,* That the said Surveyors of Highways shall, and are hereby impowered, in the fittest and most reasonable Time, between the First Day of April, and the First Day of November, Yearly (Seed Time and Harvest only excepted) to summon the Inhabitants contained in their Lists respectively, giving them at least Six Days Notice of the Time and Place where he proposes to employ them; 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 by this Act for each Person to Labour; and the Surveyor of Highways shall himself be excused

excused from any other Service on the Highways, than the summoning, ordering, and directing thereof.

V. *And Whereas the Labour of Men may be more useful, than the employing Teams, Carts, or Trucks, in some Towns, Be it therefore Enacted,* That when any Surveyor of Highways shall Judge the Labour of Men more useful and necessary than that of Carts, Teams, or Trucks, the Persons who by this Act are to find Carts, Teams, or Trucks, shall be obliged under the like Penalty, to lend two labouring Men instead thereof, furnished with necessary Implements as aforesaid.

Owners of Carts, &c. to send two Men instead of a Cart, if judged necessary by the Surveyor.

VI. *And be it further Enacted,* That the Surveyors of Highways shall, at the Expiration of their Office Annually, account at the General Quarter Sessions of the Peace, for all the Fines received by them for the Use of the Highways, and shall pay the Overplus (if any in their Hands) to their Successors in the said Office, for the aforesaid Uses, under the like Penalty as for any other Neglect of Office.

Surveyors to account to the Quarter Sessions.

Vide an Addition to this Act, 5. Geo. 3. c. 2.

Eng. Stat. 13. Ed. 1. (Statute of Winchester) c. 5. 2. § 3. Ph. & Mar. c. 8. Stat. 2. 22. Car. 2. c. 12. Sect. 9. For Exposition of these English Statutes, Vide 1. Hawk. P. C. 204. & Seq. and Dalton. c. 50.

C A P. XV.

An Act in Addition to, and Amendment of an Act, intituled *An Act for preventing Trespasses**.

* 32. Geo. 2. c. 14.

HERFAS in and by an Act, intituled An Act for preventing Trespasses, it is Enacted; " That no Swine shall be permitted to go at large within the Streets, Lanes, or Suburbs of Halifax," and the Means therein provided to prevent the same, has hitherto proved ineffectual: And Whereas Goats going at large has been found pernicious and destructive; Be it therefore Enacted by the Honourable the Commander in Chief, the Council, and Assembly, That it shall and may be lawful for any Person whatsoever, to take and seize all Swine and Goats going at large within the Streets, Lanes, or Suburbs of Halifax, and upon Proof thereof on the Oath of One credible Witness, before any One of His Majesty's Justices of the Peace for the said Town and County, the same shall be by him declared forfeited; One Third of the Value of which to be paid to the Prosecutor, and the Remainder to and for the Use of the Poor of the Town of Halifax, and shall be accordingly disposed of by him for their Use.

Preamble.

Swine or Goats going at large in the Streets, Lanes, or Suburbs of Halifax, shall be forfeited.

One Third to the Prosecutor, the Remainder to the Poor.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July, Anno Domini 1761*, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the *Seventeenth Day of March, 1762*, in the Second Year of His said Majesty's Reign; being the Second Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for the regulating Innholders, Tavern-keepers, and Retailers of Spirituous Liquors.

BE it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof no Retailer, Innholder, Tavern or Alehouse Keeper, who shall sell upon Trust or Credit, any Wine, Strong Beer, Ale, Brandy, Rum, or other Spirituous Liquors, mixt or unmixt, to any Soldier, Sailor, Servant, or Day Labourer, or other Person whatsoever, to the Amount of any Sum exceeding the Sum of Five Shillings, shall have any Remedy to recover the same, either at Law or in Equity, against any of the Persons aforesaid, their Executors or Administrators.

No Debts to be recovered by Retailers, &c. for Wines, &c. sold to any Soldier, &c. for any Sum above Five Shillings.

II. *And be it further Enacted*, That in Case any Soldier, Sailor, Servant, Apprentice, bound Servant, or Negro Slave, or other Person whatsoever, shall leave any Pawn or Pledge, as a Security for the Payment of any Sum exceeding Five Shillings, contracted in such Manner, such Soldier, Sailor, Servant, Apprentice, bound Servant, or Negro Slave, or other Person whatsoever, or the Masters or Mistresses of such Servant, Apprentice, bound Servant, or Negro

Pledges for Payment of any Sum above 5s. to be restored by Order of a Justice of the Peace.

Negro Slave, may complain to any Justice of the Peace where such Retailer, Innholder, Tavern or Alehouse Keeper, or any other Persons whatsoever, receiving such Pawns or Pledges, usually resides, that such Pawn or Pledge is detained from him or her by such Retailer, Innholder, Tavern or Alehouse Keeper, or any other Person whatsoever, and having made Proof thereof upon Oath, or otherwise to the Satisfaction of said Justice, such Justice of the Peace is required, by Warrant under his Hand and Seal, to compel such Retailer, Innholder, Tavern or Alehouse Keeper, or other Person whatsoever, by Distress and Sale of his Goods, to restore the aforesaid Pawn or Pledge to the Party complaining, or to make him or her Satisfaction for the Loss or Abuse thereof; and shall further be subject to a Fine not exceeding Twenty Shillings, for the Use of the Poor, and Costs of Prosecution.

III. *And be it further Enacted*, That no Retailer or Person whatsoever, shall harbour or suffer any Apprentice, bound Servant, or Negro Slave, to sit drinking in his or her House, nor sell or give him or them, nor suffer to be sold or given him or them, any of the Liquors aforesaid, without special Order or Allowance of their respective Masters or Mistresses, on Pain of forfeiting the Sum of Twenty Shillings for every such Offence, together with the Charges of Prosecution; to be recovered, upon Conviction on the Oath of one credible Witness, before any One of His Majesty's Justices of the Peace within the Town or Precinct where the Offence shall be committed, or such other Proof as shall be to the Satisfaction of such Justice, and to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of the said Justice, and for Want of sufficient Distress, such Justice shall and may commit such Offender to His Majesty's Gaol, there to remain for the Space of One Month, or till he shall have paid and satisfied the same. And such Sum so levied shall, by the said Justice be paid into the Hands of the Overseers of the Poor of the Town or Precinct where the Offence shall be committed, to be by them applied to the Use of the Poor of such Town or Precinct.

Retailers &c. not to suffer Apprentices, &c to remain drinking in their Houses, &c. on Penalty of 20s.

IV. *Provided always*. That nothing herein contained shall extend to debar any Retailer, Innholder, Tavern or Alehouse Keeper, from furnishing any Traveller, or Boarders in his Family, with necessary Refreshments on Credit.

not to extend to Travellers &c.

C A P. II.

An ACT to enable the Governor, Lieutenant Governor, or Commander in Chief, to borrow the Sum of *Four Thousand Five Hundred Pounds* for paying off the Public Debts, and to postpone the Payment of Bounties and Premiums.

Preamble.

*** HERE AS it appears upon the State of the Public Accounts, that a large Debt is due by the Government to sundry Persons, to discharge the Bounties and Premiums for the Year One Thousand Seven Hundred and Sixty One, and preceding Years, and also to pay off the several Accounts of the Public Works, carried on under the Direction of the Commissioners: And that the Impost and Excise Duties have been hitherto insufficient for the immediate Discharge of such Debts: And Whereas it is necessary for the Support of the Public Credit, and for the Relief of the Public Creditors, that a Sum of Money should be borrowed, and paid into the Treasury to answer these Purposes; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, be and is hereby impowered to borrow on Loan, a Sum of Money not exceeding Four Thousand Five Hundred Pounds of the present Currency, on the Credit of the Province Funds; and that the said Sum shall be applied to the Payment, and Discharge of the Bounties and Premiums, which were due on or before the Twenty Fifth Day of March One Thousand Seven Hundred and Sixty Two, and also the Demands of the Persons employed in the Public Works under the Direction of the Commissioners aforesaid.

£4500. to be borrowed and applied to the Payment of Bounties and Demands for the Publick Works.

To be repaid, with Interest, in One Year.

II. *And be it Enacted*, That any Sum so borrowed for the Purposes aforesaid, not exceeding the said Sum of Four Thousand Five Hundred Pounds, shall be paid back by the Treasurer or Keeper of the Province Funds for the Time being, to the Lender or Lenders thereof, at the Expiration of One Year compleat from the Date of such Loan, with lawful Interest to the said Time of Payment, (or thereafter till paid) and that out of such Monies as shall arise from the Duties on Wines, Beer, Rum, or other distilled Spirituous Liquors which are now due or shall hereafter become due by Law.

Bounty Bills or Accounts to be received at the Treasury as Cash.

III. *Provided*, That if the Governor, Lieutenant Governor, or Commander in Chief, should (by a Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Case, any Person or Persons who shall present Bounty Bills, or Accounts of Money due from the Government, properly authenticated, said

Notes

Notes or Accounts may be received by the Treasurer of the Province, and a Warrant shall be issued for the like Sum bearing Interest, as by this Act directed.

IV. *And to enable the Treasurer or Keeper of the Province Funds, more effectually to pay off and discharge the said Debt contracted as aforesaid; Be it further Enacted,* That for the future the Payment of all the Bounties and Premiums granted by the General Assembly on Fish, Hay, Oats, Stone Walls, Hemp and Flax, be and are hereby suspended, postponed, and put off for One Year, next after the same shall become respectively due or payable by any former Law of this Province.

Payment of future Bounties to be postponed for One Year after the same shall be due.

C A P. III.

An ACT for preventing fraudulent Dealings in the Trade with the Indians.

HEREAS many Mischiefs may arise by Frauds and other Injuries, in the Trade with the Indians of this Province: And Whereas the said Indians are unacquainted with the Laws of this Province, and in what Manner they are to proceed in order to do themselves Right; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief, upon Complaint of any Indians within this Province, made to him or either of them, that they have been wronged or cheated of their Furs or any other Merchandize, or in any other their Trade and Dealing with other His Majesty's Subjects; that the Governor, Lieutenant Governor, or Commander in Chief is hereby desired to direct His Majesty's Attorney General to prosecute the same, either before His Majesty's Justices, or in any of His Majesty's Courts of Record in a Summary Way, as the Laws do direct, and such Prosecution shall be deemed Legal, and Judgment and Execution shall issue accordingly.

Preamble.

The Attorney General to prosecute in behalf of any Indians, for Injuries done them.

II. This Act to continue and be in Force until further Regulations relating to the Trade with the Indians shall be made.

Act to continue till further Regulations be made.

C A P. IV.

An A C T to prevent the Firing of Squibs, Rockets, Serpents or other Fireworks.

Be it Enacted, by the Licutenant Governor, Council, and Assembly, That it shall not be lawful for any Persons to make, or cause to be made, or sell, or expose to Sale, any Squibs, Rockets, Serpents, or other Fireworks, or any Cafes, Moulds, or other Implements for the making the same, or for any Persons to permit any Squibs or other Fireworks to be thrown or fired from their Houses, Lodgings, or Habitations, or Place thereto belonging or adjoining, into any public Street, Road, Passage or Water, or for any Person to throw, or fire, or be assisting in throwing or firing of any Squibs, or other Fireworks into any publick Street, House, Shop, Highway, Road, Passage or Water; and that every such Offence shall be judged a Common Nufance.

II. *Be it further Enacted,* That if any Persons shall make, or cause to be made, or shall give, sell, or utter any Squibs, Rockets, Serpents or other Fireworks, or any Moulds or Instruments for the making of any such Squibs, Rockets or Serpents, or other Fireworks, every Person so offending, and being thereof convicted before One of His Majesty's of the Peace of the Place where such Offence shall be committed, by Confession of the Party, or the Oath of One credible Witness, shall forfeit the Sum of Forty Shillings; and that if any Persons shall throw or fire, or be aiding and assisting in throwing or firing, of any Squibs, Rockets, Serpents, or other Fireworks, into any publick Street, House, Shop, Highway, Passage, or Water, every Person so offending, and being thereof convicted as aforesaid, shall forfeit the Sum of Forty Shillings; and if any Persons shall permit any Squibs, or other Fireworks, to be thrown or fired from their Houses, Shops, Lodgings, or Habitations, or in any Place thereto belonging, or adjoining to any public Street, Road or Passage, or any other Place; every such Person so offending and being thereof convicted as aforesaid, shall forfeit the Sum of Forty Shillings. The said several Forfeitures to be levied by Distress and Sale of the Goods of every such Offender, by Warrant of the Justice before whom the Conviction shall be made, the one Half of the Forfeiture to be to the Use of the Poor where the Offence shall be committed, and the other Half to the Use of them, who shall prosecute and cause such Offenders to be convicted; and if said Persons so offending shall not, immediately upon their being convicted, pay to the Justice before whom such Conviction shall be made, the said Forfeiture for the Uses aforesaid, such Justice is hereby required and empowered, by Warrant to commit such Person to the House of Correction, or Gaol

Making, &c. any Squibs, &c. to be judged a Common Nufance.

Persons making the same, &c.

forfeit 40s.

One Half to the Poor, the other Half to the Informer

Gaol for any Time not exceeding Fourteen Days, unless such Offender shall sooner pay such Forfeiture to the said Justice.

III. *Provided*, That this Act shall not extend to debar the Governor, Lieutenant Governor, or Commander in Chief of this Province, or the Commanding Officers of His Majesty's Troops, or any Persons employed under them or either of them, from making and firing off any such Fireworks as aforesaid.

Exception as to the Governor, &c.

IV. *Be it also Enacted*, That no Person whatsoever shall presume to make or cause to be made any Bonfires within Three Hundred Yards of any Buildings, Stacks of Hay or Corn, under the Penalty of Forty Shillings, to be recovered and applied in the Manner as mentioned in this Act.

Bonfires not to be made within 300 Yards, of any Building, &c.

C A P. V.

An A C T for appointing Firewards, ascertaining their Duty, and for punishing Thefts and Disorders at the Time of Fire.

****E it Enacted by the Lieutenant Governor, Council, and Assembly*, That it shall and may be lawful to and for the Justices of the Peace for the Town and County of *Halifax*, from Time to Time annually in their Sessions, to appoint such Number of prudent Persons of known Fidelity, not exceeding Ten, in the several Parts of the said Town of *Halifax*, and the Suburbs thereof, as they may think fit, who shall be sworn faithfully to discharge their Trust, and shall be denominated and called Firewards, and have a proper Badge assigned to distinguish them in their Office, *viz.* A Staff of Six Feet in Length, coloured Red, and headed with a bright Brass Spear of six Inches long.

Justices in Sessions to appoint Ten Persons to serve as Firewards for *Halifax*.

II. *And be it further Enacted*, That at the Times of the breaking forth of Fire in the said Town or Suburbs thereof, and during the Continuance thereof, the said Firewards shall and are hereby authorized and impowered, jointly or separately to command and require Assistance for the extinguishing and putting out the Fire, and for removing of Household Stuff, Furniture, Goods and Merchandizes, out of any Dwelling Houses, Store Houses, or other Buildings actually on Fire, or in Danger thereof, and to appoint Guards to secure and take Care of the same: As also to require Assistance for the pulling down of any Houses, or any other Services relating thereto, to stop and prevent the further spreading of the Fire; and to suppress all Tumults and Disorders. And the Officers appointed from Time to Time as aforesaid, are required,

Duty and Authority of the Firewards.

upon

upon the Notice of Fire breaking forth (taking their Badge with them) immediately to repair to the Place, and vigorously exert their Authority for the requiring Assistance, and using their utmost Endeavours to extinguish, and prevent the spreading of the Fire, and to preserve and secure the Estate and Effects of the Inhabitants; and due Obedience is required to be yielded unto them, and each of them accordingly for that Service: And for all Disobedience, Neglect or Refusal in any Person, Information thereof shall, within Two Days next thereafter, be given to any One of His Majesty's Justices of the Peace for the said County and Town, and upon Conviction thereof, before any two of the Justices aforesaid, each and every Person so convicted shall forfeit and pay the Sum of Forty Shillings, to be levied and distributed by the Direction of such Justices, among the Poor most distressed by the Fire; and in Case the Offenders are unable to satisfy the Fine, then to suffer Ten Days Imprisonment.

Any Person disobeying their Orders at the Time of Fires, forfeit 40s.

Two Magistrates or Firewards, may order any House to be pulled down, to stop the Fire;

III. *And be it further Enacted*, That when any Fire shall break out in the said Town of *Halifax*, or the Suburbs thereof, Two or more of the Magistrates or Firewards of the said Town shall and may, and are hereby impowered to give Directions for pulling down any such House or Houses as shall by them be judged meet to be pulled down, for the stopping and preventing the further spreading of the Fire; and if it shall so happen, that the pulling down any such House or Houses by the Direction aforesaid, shall be the Occasion of stopping the said Fire, or that the said Fire shall stop before it come to the same, that then all and every Owner of such House or Houses shall receive reasonable Satisfaction, and be paid for the same by the rest of the Inhabitants of the said Town and Suburbs, (to be accounted from the River called Fresh Water River, to Mr. *Mauger's* Distilling House inclusive) whose Houses shall not be burnt, in the Manner hereinafter prescribed, (*That is to say*) the Owner or Owners of such House or Houses so pulled down and intitled as aforesaid, shall as soon as may be, make application to the First Justice in the Commission of the Peace for the said Town and County, or in his Absence to the next named in the said Commission, who is hereby impowered to call a *Special Sessions* of the Justices, who shall meet at the Time appointed; and the Court being satisfied, by such Proof as shall be brought, of the Justice of the Claims made, they shall then issue an Order for a Valuation of the Damages so sustained, to be made by Two or more indifferent Persons, who shall make a Return of their Proceedings, upon Oath, into the said Court by the Day affixed, whereupon the Court shall appoint Two or more Assessors, who shall Tax the Houses of the said Inhabitants that have not been burnt, at such Rate or Rates as shall by them be thought just, in Proportion to the Value of the Houses that are to be taxed, for paying the said Damages and the Charges of Valuation, Taxation, and Collection, together with the other Fees of the Court, to be settled before the making such

Owners of such Houses to have Satisfaction, by an Assessment of the Inhabitants.

such Assessment; and the said Assessors are to report their Proceedings to the Court also upon Oath. And the said Court shall thereupon issue an Order for collecting the Monies so taxed, and in Case of Non Payment the same to be levied by Warrant of Distress to be obtained from any One of the said Justices, upon Application to him by the Collector or Collectors of the said Tax: And as soon as the Assessments are so collected, the Court shall order Payment to be made to the Party claiming, according to the Report made and approved of the said Damages; as also the Payment of such other Charges as aforesaid.

IV. *Provided*, That if the House where the Fire did begin and break out, shall be adjudged fit to be pulled down to hinder the Increase and further spreading of the same, that then the Owner of such House shall receive no Manner of Satisfaction therefor, any Thing herein contained to the contrary notwithstanding.

No Satisfaction to be made for the House where the Fire began.

V. *And be it likewise Enacted*, That if any evil minded wicked Persons, shall take Advantage of such Calamity, to rob, plunder, purloin, imbezzle, or convey away, or conceal any Goods, Merchandizes, or Effects of the distressed Inhabitants, whose Houses are on Fire or endangered thereby, and put upon removing their Goods; and shall not restore and give Notice to the Owner or Owners, if known, or bring them into such Public Place as shall be appointed and assigned by the Governor and Council, within the Space of Two Days next after Proclamation made for that Purpose, the Person or Persons so offending, and being thereof convicted, shall be deemed Felons, and suffer Death as in Cases of Felony, without Benefit of Clergy.

Stealing at the Time of Fires, Felony without Clergy.

C A P. VI.

An Act in Addition to an Act intitled, *An Act for establishing and regulating a Militia**.

* 32. Geo. 2. c. 6.

W H E R E A S by an Act intitled "An Act for establishing and regulating a Militia," it is Enacted, "That the Captain and Commissioned Officers of each Company shall, and thereby are fully impowered to nominate and appoint proper Persons to serve as Serjeants and Corporals in their respective Companies, and to displace them and appoint others in their room, as they shall see Occasion." *But Whereas no Provision is made to oblige Serjeants and Corporals, so nominated and appointed, to serve; which is found highly detrimental to the Service, when the Militia are ordered to do Duty; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That*

Preamble.

Penalty 40s. for refusing to serve as Serjeant or Corporal.

any Person who shall be nominated and appointed to serve as a Serjeant or Corporal, as directed in the above mentioned Act, and shall refuse to serve, shall pay Forty Shillings Fine, and another shall be chosen in his room, and so on until one do accept.

And 10s. for Neglect of Duty.

II. *And be it further Enacted*, That if any Serjeant or Corporal shall be guilty of any Neglect of Duty, or shall be drunk, or be disorderly while on Duty, such Serjeant or Corporal shall forfeit and pay the Sum of Ten Shillings, or be committed and set to hard Labour for Forty Eight Hours; which said Fines shall be recovered and applied in the same Manner, as directed by the above mentioned Act for a Person refusing to serve as Clerk.

Supernumerary Commission Officers.

III. *And Whereas there are sundry supernumerary Militia Officers, Commission'd in this Province, who are not appointed to any particular Companies; Be it Enacted*, That such Officers shall not be obliged to do Duty as Non Commissioned, or Private; But shall nevertheless hold themselves in Readiness to do Duty according to their Rank, when ordered by the Officers commanding in their respective Districts.

Military Exercises to be Eight Days in each Year.

IV. *And Whereas by the said Act, intituled "An Act for establishing and regulating a Militia," It is Enacted*, "That every Captain, or Chief Officer of any Company or Regiment shall be obliged, on a Penalty therein mentioned, to draw forth his Company every Three Months and no more, to exercise them in Motions, the Use of Arms, and Shooting at Marks, or other Military Exercises." *Which has been thought to be insufficient to answer the Purposes designed by the said Act; Be it therefore Enacted*, That from and after the Publication hereof, every Captain or Chief Officer of any Company of Militia, having received Orders for that Purpose from the Officer Commanding any Regiment of Militia, or any other Corps or Body of Militia, who are required to give Orders accordingly, shall be obliged on Penalty of Five Pounds, to draw forth his Company or cause them to be drawn forth for exercising them in Motions, the Use of Arms and Shooting at Marks, or other Military Exercises, Eight Days in Each Year and no more; to be regulated at the Discretion of such Commanding Officer, according as will best suit with the Conveniency of the People; and as will give the least Interruption to their Labour and Industry: And every Person liable to be trained, having Three Days Notice thereof, and not appearing and attending the same, shall for each Day's Neglect, pay a Fine of Five Shillings.

Drummers to remain in their Companies, altho' not Resident in their District.

V. *And be it further Enacted*, That if any Person be appointed to be a Drummer in any Company, he shall remain in the said Company, notwithstanding he may not reside in the District which composes the same. *Provided*, That no Drummer shall be obliged

obliged to serve in any Company, but in the Town where he resides, unless ordered on a March.

VI. *And be it further Enacted*, That the said Act, intituled *An Act for establishing and regulating a Militia*, together with the Additions and Amendments thereto, be construed and are hereby declared, to extend all over this Province.

Militia Acts to extend throughout the Province.

C A P. VII.

An Act for the better regulating the *Militia*, on actual Service in Time of War.

HERFAS in Times of imminent Danger, either by Invasion or sudden Attack made or threatened to be made by His Majesty's Enemies on any of His Subjects within this Province, insomuch that His Excellency the Governor, Lieutenant Governor, or Commander in Chief for the Time being, shall, by Virtue of the Power granted him by His Majesty's Commission, judge it expedient to order any Part of the Militia of this Province to march from one County or Part of the Province to another, on necessary Service; or to do Duty by mounting Guard: In such Case it is requisite that due Subordination should be observed, for preventing Mutiny, Desertion and Contempt; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That if any Officer, Non Commissioned Officer, or Soldier of the Militia, under Arms for real Service, on March, or on Guard, or that shall be ordered for any of the above mentioned Duties, 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 Soldier, he shall be confined by the Commanding Officer of such Party or Guard: And it shall be lawful for the Commanding Officer of the Regiment, 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 One Captain and Two Subalterns at least, but where they can be had, of One Captain and Four Subalterns, who may give Judgment by laying a Fine on such Offender in any Sum not exceeding Forty Shillings, which Fine so ordered by the Court Martial, if he Neglect or refuse to pay, the said Offender shall be Corporally punished, by riding a Wooden Horse any Time not exceeding Half an Hour, or be committed to the House of Correction to be kept to hard Labour there for any Time not exceeding Ten Days.

Preamble.

Punishment for Disobedience of Orders, or Neglect of Duty, on Conviction before a General Court Martial,

or Regimental Court Martial.

II. *Provided*

Sentence to be approved by the Commanding Officer, before it be executed.

II. *Provided nevertheless*, That no Sentence of a Regimental Court Martial shall be put into Execution until approved of by the Commanding Officer of the Regiment, or of the Detachment where the Crime may have been committed. And no Officer being the Accuser, shall sit as a Member.

Process for Desertion, &c.

III. *And be it further Enacted*, That if any Officer, Non Commissioned Officer, or Soldier, of the Militia, shall in the Field, upon a March, or in Quarters on actual Service, desert the Troop, Company or Command to which he belongs, or shall disobey Orders; if a Commissioned Officer, he shall be put under Arrest by the Commanding Officer, if a Non Commissioned Officer, or Soldier, he shall be sent to the next County or other Gaol as soon as convenient, and it shall and may be lawful for His Excellency the Governor, Lieutenant Governor, or Commander in Chief of the Province, to order a General Court Martial, by a Warrant under his Hand and Seal, for the Trial of such Offender 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 Degree of a Field Officer, and there shall be as many Captains as conveniently can 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 the above Offences that shall come before them.

General Court Martial may punish by Death, &c.

IV. *And be it further Enacted*, That such General Court Martial shall have Power to punish with Death, or otherwise by Fine or Imprisonment, the Fine not exceeding Twenty Pounds, or Imprisonment not more than six Months,

Members to take the following

V. *Provided always*, That in all Trials by General Courts Martial, every Officer, before any Proceeding be had, shall take the following Oath, and the Judge Advocate is hereby authorized to administer the same.

Oath,

Y O U shall well and truly try and determine according to your Evidence in the Matter now before you, between our Sovereign Lord the King's Majesty and the Prisoner to be tried.

No Sentence of Death to be given unless Twelve Members concur.

VI. And no Sentence of Death shall be given against any Offender, by any such General Court Martial, unless Twelve Officers present shall concur therein; and His Excellency the Governor, Lieutenant Governor, or Commander in Chief, shall have Power to appoint any one of his Majesty's Justices of the Peace for said Province, or other fit Person, to act as Judge Advocate at any such General Court Martial.

VII. *And*

VII. *And be it also Enacted,* That no Sentence of such General Court Martial shall be put in Execution before the same be approved by his Excellency the Governor, Lieutenant Governor or Commander in Chief for the Time being.

Sentence to be approved by the Governor &c.

VIII. *Provided always and be it Enacted,* That when any Part of the Militia shall be draughted to march from one Part of the Province or Town to another on real Service, all such Draughts or Detachments shall be made by Ballot from each Company, in exact Proportion according to their Numbers then fit for Duty, which shall be on the Oath of the Captain, or Commanding Officer, to the best of his Knowledge, if required; and each and every Person so draughted shall go in his own proper Person or find a good Man in his Room, and for his Neglect or Disobedience herein, he shall be confined by the Commanding Officer, and shall pay a Fine of Ten Pounds, or remain in Gaol for Three Months, and another Man shall be draughted as aforesaid to march in his Place, who shall have Half of the above Fine.

When the Militia is ordered to march, Detachments to be made from each Company by Ballot.

Penalty for refusing to march.

IX. *And be it further Enacted,* That when any Part of the Militia shall be ordered to march from one Part of the Province or Town to another not in the same County to which they belong, on real Service, there shall be allowed and paid to the Commissioned, Non Commissioned Officers, Drummers, and Private Soldiers, for so long as they shall remain on such Service, at and after the Rates following, (*That is to say*) to the Commissioned Officers at and after the same Rate as Officers of the like Rank in His Majesty's Troops; to the Serjeants after the Rate of Two Shillings, Corporals One Shilling and Four Pence, Drummers One Shilling and Four Pence, and Private Soldiers One Shilling *per Diem* each, together with the like Allowance of Rations of Provisions of all Kinds as are distributed and allowed to the Non Commissioned Officers and Soldiers in His Majesty's Regular Forces.

Militia to be paid when ordered to march.

X. *Provided always,* That this Act nor any Thing herein contained shall take Effect or be carried into Execution, at any Time but on Occasion of actual Invasion or sudden Attack from an Enemy, or imminent Danger thereof, any Thing herein contained to the contrary notwithstanding.

Act not to take place but on actual Invasion, &c.

XI. All Fines and Forfeitures to be incurred by this Act, and not particularly appropriated, shall be applied to such Military Uses as shall be thought necessary by the Governor, Lieutenant Governor, or Commander in Chief of this Province for the Time being.

Application of Fines.

C A P. VIII.

An Act for regulating the Exportation of Fish, and the Affize of Barrels, Staves, Hoops, Boards, and all other Kind of Lumber; and for appointing Officers to survey the same.

*E*t Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the End of this present Session of the General Assembly, all pickled Fish for Exportation shall be put in none but Barrels of Thirty one Gallons and a Half at least, and that the Fish be all of one Kind, well faved, sweet, free from Rust, and close packt, the Barrels tight, and full of sweet and strong Pickle.

Pickled Fish for Exportation to be put into Barrels of 31 Gallons and a half at least, The Fish to be all of one kind, &c.

Quality of Herring,

That Herrings be free from Oil.

of Codfish.

That merchantable Codfish have the Qualities that make them so in Newfoundland.

Size of Hoghead Staves,

That all Hoghead Staves be six Inches broad, three Quarters of an Inch thick at the thin Edge, and forty Inches long.

of Barrel Staves,

That Barrel Staves be four Inches broad, and half an Inch thick at the thin Edge, and thirty Inches long.

of Barrel Staves for the Irish Market,

That Barrel Staves for the Irish Market be thirty Inches long, five Inches broad, clear of Sap, and three Quarters of an Inch thick at the thin Edge.

of Hoghead Hoops,

That Hoghead Hoops be fifteen Feet long, substantial and well shaved, and three Quarters of an Inch broad at the small End.

of Barrel Hoops,

That Barrel Hoops be nine Feet long, and Half an Inch broad at the small End.

of Boards,

That Boards shall be full one Inch thick.

of Shingles,

That Shingles be eighteen Inches long at least, four Inches broad, and half an Inch thick at the thick End.

of Clapboards

That Clapboards be five Inches broad, half an Inch thick at the Back, and four Feet four Inches long.

Measure of Cord Wood.

That Cord Wood be full four Feet long each Stick, accounting half the Carf, the Pile to be solid, four Feet high, or an Allowance

lowance for Wants, of eight Feet long, and each Cord sound hard Wood.

II. *And be it further Enacted*, That all Barrels used for Fish within this Province, shall be made of sound well seasoned Timber and free of Sap, and that fit Persons be appointed from Time to Time in all Places needful, to view and gauge all such Barrels; and such as shall be found tight and of the Assize before mentioned, shall be marked with the Gauger's Mark, who shall have for his Pains Eight Pence per Ton; and every Cooper shall make his Barrels of the Assize aforesaid, and shall set his distinct Brand Mark on all Barrels so made by him; on Penalty of Forty Shillings for each Offence.

Officers to be appointed.

Coopers to make Barrels of lawful Size, on Penalty of 40s.

III. *And be it also Enacted*, And whosoever shall put to Sale any Barrels new made up from old Stuff, being deficient either in Workmanship or Timber, upon Proof thereof made by one sufficient Witness, before any one of His Majesty's Justices of the Peace, he shall forfeit such Barrels, and be fined and pay the Sum of Ten Shillings for every Barrel that shall be so found defective, or shall suffer Ten Days Imprisonment for every such defective Barrel. *Provided* the said Imprisonment do not in the whole exceed the Term of Three Months.

Persons offering to Sale deficient Barrels, forfeit the same, and 10s.

IV. *And be it Enacted*, That the Grand Jury for each County within the Province, shall annually at the first *General Quarter Sessions* in the Year, and before the Rising of the Court, nominate and appoint fit Persons to serve in such Towns or Places where the same shall be necessary, as Gaugers of Casks or Barrels, Cullers and Surveyors of dry and pickled Fish, Boards, Staves, Shingles, Clapboards, Hoops, and Cord Wood, and shall report to the said Court the Names of the several Persons by them so nominated and appointed for the Service aforesaid, that they may be sworn by the said Court to the due Execution of their several Offices, which, if any, so nominated and appointed, shall refuse, he shall pay the Sum of Forty Shillings, and another shall be nominated and appointed in the like Manner in his stead; and failing of any of these by Misbehaviour, Death, or leaving the Province, or changing the Town of his Residence, their Places shall be filled up by a new Nomination and Appointment in the same Manner at the next *Quarter Sessions*, or *Special Sessions* to be called for that Purpose, under the like Penalty for Refusal.

Grand Jury, at the first Sessions, annually, to appoint Gaugers, Cullers, and Surveyors.

Any Person refusing to serve, forfeits 40s.

V. *And be it further Enacted*, That every Gauger of Cask or Barrels appointed as aforesaid, shall take Care that such Cask or Barrels by him viewed and marked as aforesaid, be agreeable to the Directions of this Act; and that he mark no Cask or Barrels whatsoever defective in any of the above Particulars, on Penalty of

Gaugers not to mark defective Casks,

on Penalty of 100s for each Cask.

of Ten Shillings for every Cask so by him marked that shall be found defective in any of the aforesaid Respects.

VI. *And be it Enacted, for preventing of Fraud and Deceit in the packing of pickled Fish to be put to Sale, That in every Town within this Province where such pickled Fish are packed for Sale, the Surveyor or Surveyors of Fish of such Town, or of the Town where they are put to Sale or shipped, shall see that it be well and orderly performed, and that the said Fish be packed all of one kind and that all Cask or Barrels so packed be full, and in all other Respects answerable to the Regulations herein specified in that behalf, setting his Brand or Mark on all Cask or Barrels so by him examined and surveyed; and he shall receive of the Owner or Seller of such Fish, for surveying and marking, Two Pence per Barrel, and Four Pence per Mile for his Travel; and if any such pickled Fish be put to Sale or shipped off without the Surveyor's Brand or Mark, they shall be forfeited, or the Value thereof, by the Seller or Shipper of the same.*

Surveyors of pickled Fish not to mark any but such as are agreeable to this Act.

Their Fees.

Pickled Fish not marked to be forfeited if offered to Sale.

Surveyors to examine strictly all Pickled Fish.

VII. *And be it likewise Enacted, That all Sorts of green or pickled Fish that shall be put up for Exportation to a Foreign Market, shall be searched, surveyed, and approved by the sworn Surveyor, who shall take strict Care that the same be in all Respects agreeable to the Regulations herein before specified, and shall and may open the Head of any one Barrel the Buyer shall chuse for that Purpose, and such as shall be found good and Merchantable the Surveyor shall mark with such Brand Mark, as shall be assigned to him by the said Court, and such other Cut Mark as may denote the Kind of Fish and Time when packed. And if any Master of any Ship or Vessel, or any Officers or Mariners belonging thereto, shall receive such pickled Fish, not marked and branded as aforesaid, on board any of their Ships or Vessels, he or they who shall offend therein, shall forfeit double the Value of all such Fish; and he or they who shall own such Fish shall forfeit the same, or the Value thereof. And if any Cooper or other Person shall shift any Fish, either on board or on Shore, after the same hath been so marked and branded by the Surveyor, and ship and export the same, the Surveyor not having allowed thereof, and marked the Casks or Barrels a new, whereinto such Fish shall be shifted; all Persons acting, ordering, or assisting therein, upon Conviction thereof before any one of His Majesty's Justices of the Peace, by the Oath of one credible Witness, for the first Offence shall suffer six Months Imprisonment, for the second nine Months Imprisonment, and for the third twelve Months Imprisonment, without Bail or Mainprize; and shall likewise pay double Damages to the Person wronged thereby. And if any Person or Persons shall presume to counterfeit the Brand Mark of any Surveyor or Gauger, or Certificate of any Culler, upon due Proof or Conviction, he or they shall incur, forfeit*

and

Masters of Vessels, &c. receiving Pickled Fish on board, not marked, to forfeit double the Value.

Any Person shifting Fish after the same has been marked by the Surveyor, to suffer Imprisonment, for the first Offence, six Months; for the second Offence, nine Months, and for the third Offence, Twelve Months, and pay double Damages.

Penalty £10. for Counterfeiting the Surveyor's Mark.

and pay the Sum of Ten Pounds, and suffer one Month's Imprisonment.

VIII. *And be it further Enacted,* That the Culler of dry Cod Fish thereto appointed as aforesaid, shall cull all such dry Cod Fish that shall be sold or exported, and shall have One Penny per Quintal for every Quintal of Fish by him so culled, and Four Pence per Mile for his Travel, to be paid by the Owner or Seller; and such Culler shall give a Certificate under his Hand specifying the Quantity of Fish so by him culled, and the Name of the Owner, Seller, or Shipper thereof, and of the Time and Place where culled, and if any dry Cod Fish shall be put to Sale, or shipped for Exportation, without having been so culled by the Culler, or without such Certificate thereof as before directed, the same shall be forfeited, or the Value thereof, by the Seller or Shipper of the same.

Cullers of dry Cod Fish.
their Duty,
and Fees.

If any such Fish be put to Sale or Shipped for Exportation, without the Cullers Certificate, the same to be forfeited or the Value.

IX. *And be it also Enacted,* That all Boards, Plank, Timber and Slit Work, that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any Foreign Market, before their Delivery on Sale, shall be viewed, surveyed and also measured, by one of the Surveyors thereto appointed, (where he shall have any Doubt of the Measure) having Consideration for drying and shrinking; also shall mark anew all such to the just Contents, making Allowance for Rots, Splits and Wains, the Seller to pay the Officer Four Pence per Thousand Feet for viewing only, and Six Pence per Thousand Feet more for measuring and marking; and so in Proportion for a lesser Quantity than a Thousand Feet, and four Pence per Mile for his Travel as aforesaid: And no Boards, Plank, Timber, or Slit Work, shall be delivered upon Sale, or shipped for Exportation beyond Sea, before they have been viewed and surveyed by the Surveyor, and by him found answerable to the Description in this Act mentioned; and also measured (if Occasion be) and marked anew by one of the Officers thereto appointed; on Pain of being forfeited, or the Value thereof, by the Seller or Shipper thereof.

Surveyors of Lumber, their Duty,

and Fees.

Boards &c. delivered or Shipped for Exportation, before they are marked by the Surveyor, to be forfeited or the Value.

X. *And be it Enacted,* That all Shingles and Clapboards exposed to Sale by Quantities in Bundles, that do not hold out the Number they are marked for, unless it shall appear that some have been drawn or shaken out of the Bundle, after packing, shall be forfeited; the Charge of searching and telling to be paid thereout. That every Bundle of Shingles and Clapboards that, according to the Judgment of the Surveyor, will hold out Eighteen Inches long, Four Inches broad, and half an Inch thick, agreeable to the Dimensions by this Act prescribed for Shingles, and if Clapboards, Five Inches broad, half an Inch thick at the back, and Four Feet Four Inches long, being the Dimensions by this Act prescribed for Clapboards; shall be accounted merchantable, all that are otherwise to be culled out and burnt, 'till what be left of said Bundles will bear the same Pro-

Shingles and Clapboards deficient in Number to be forfeited,

if deficient in Quality, to be burnt.

portions before prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Shingles, Two Pence per Thousand; if Clapboards, Two Pence per Thousand surveying, and One Penny more per Thousand telling; to be paid by the Owner or Seller, where no Forfeiture is found for want of Tale to satisfy such Charge, and for every Thousand he culls and binds up again, Six Pence per Thousand, and proportionably for a lesser Quantity, to be paid by the Owner or Seller of the said Shingles or Clapboards, returning the Remainder to the Owner, if any be, after the Charges are paid.

XI. *And be it also Enacted,* That if any Boards, Plank, Timber, or Slit Work, or any Shingles or Clapboards shall be exposed for Sale, or shipped for Exportation, without such Survey as above directed, had before the Delivery thereof; the whole of such Boards, Plank, Timber, Slit Work, Shingles or Clapboards, or the Value thereof, shall be forfeited by the Seller or Shipper.

All boards &c. exposed to Sale or Shipped for Exportation, without Survey, to be forfeited, or the Value, by the Seller or Shipper.

XII. *And be it further Enacted,* That all Hoghead Staves, Barrel Staves, Hoghead Hoops, and Barrel Hoops, that shall be imported or brought for Sale to any Town within this Province, or exported from thence to any foreign Market, before their Delivery on Sale shall be viewed and surveyed by one of the Surveyors thereto appointed, who shall take strict Care that the same be severally conformable to the Directions of this Act; and that all Staves and Hoops, that according to the Judgment of the said Surveyor, shall be agreeable to the Directions of this Act, and none other, shall be accounted merchantable; and all that shall be found otherwise to be culled out and burnt, till what be left will bear the several Proportions by this Act prescribed, according to the Judgment of the said Surveyor, who shall have for his Service, if Staves, Six Pence per Thousand, if Hoops, Three Pence per Thousand, to be paid by the Seller.

Hoghead Staves, Hoghead Hoops, &c. deficient in Quality to be burnt.

XIII. *And be it also Enacted,* That all Hoops exposed to Sale by Quantities in Bundles that do not hold out the Number that they are so exposed to sale for, unless it appears that some are drawn or shaken out of the Bundle after packing, shall be forfeited; the Charge of surveying Three Pence per Thousand, and Three Pence per Thousand telling, and so in Proportion for a lesser Quantity, being paid thereout. And if any Staves or Hoops shall be delivered upon Sale or shipped for Exportation to any Foreign Market, before they have been surveyed by the Surveyor, and by him found to answer the Descriptions in this Act mentioned, the same shall be forfeited, or the Value thereof, by the Seller or Shipper thereof.

Staves and Hoops delivered upon Sale, or Shipped for Exportation, not surveyed, to be forfeited or the Value, by the Seller or Shipper.

XIV. *And be it further Enacted,* That all Cord Wood exposed to sale, shall on the Sale, and before the Delivery thereof, be surveyed

veyed by the Officer for that Purpose appointed, who shall measure the same, and take Care that each Cord do answer the Qualifications by this Act required; and he shall receive of the Seller for each Survey and Examination, Two Pence per Cord and no more; and if any Cord Wood shall be sold and delivered without such Survey, the same shall be forfeited, or the Value thereof, by the Seller.

Cord Wood sold, before it be surveyed, to be forfeited, or the Value, by the Seller.

XV. *And be it further Enacted*, That if any Person shall refuse to satisfy the Officer or Officers by this Act appointed, his Fees before mentioned, he shall have Power to detain so much of the Commodity as will make him Satisfaction for his Fees and Travel aforesaid: *Provided* that such Fees do not exceed the Sum of Twenty Shillings, and in case the same shall exceed the Sum of Twenty Shillings, then to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of any One of His Majesty's Justices of the Peace, the Surplus, if any be, after paying the Officer's Fees and Charges of Distress and Sale, to be returned to the Owner of the said Goods.

Surveyors may on Refusal of Payment, detain as much of any Commodity as will pay his Fees, if under 20s. if above, to be levied by Warrant of Distress from a Justice of the Peace.

XVI. *And be it further Enacted*, That an Oath shall be administered to the several Officers that shall be chosen to gauge, survey and search the several Articles in this Act mentioned, in the following Form, *viz.*

Officers to be Sworn.

YOU swear, that you will from Time to Time diligently and faithfully discharge and execute the Office of _____ within the Limits whereto you are appointed for the ensuing Year, and until another be chosen in your Place; and that in and by all the Particulars mentioned in the Laws whereto your Office hath Relation; and that you will do therein impartially according to Law, without Fear or Favour.

Their Oath.

So help you G O D.

XVII. *And be it likewise Enacted*, That all Fines, Penalties, and Forfeitures arising by Force and Virtue of this Act, shall be one Half to His Majesty, towards the Support of His Majesty's Government of this Province, and the other Half to him or to them that shall inform or sue for the same; to be recovered in Manner following, (*That is to say*) Where the Forfeiture or Value thereof shall not exceed the Sum of Twenty Shillings, the same to be recoverable before any One of His Majesty's Justices of the Peace, by Oath of one credible Witness, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, under the Hand and Seal of such Justice, and for want of sufficient Distress, such Offender to suffer Twenty Days Imprisonment; and where the Forfeiture or Value shall amount to above Twenty Shillings, but shall not exceed the Sum of Three Pounds, then the same to be recoverable

Penalties & Forfeitures, how to be levied, and applied.

verable before any Two of His Majesty's said Justices of the Peace upon the like Proof as above, and to be levied by like Warrant under the Hands and Seals of such Justices, and for want of sufficient Distress the Offender to suffer Sixty Days Imprisonment; and in case such Forfeiture or the Value thereof shall exceed Three Pounds, the same to be recoverable by him or them who shall inform or sue for the same, in any of His Majesty's Courts of Record in this Province.

XVIII. *And be it Enacted*, That this Act be read and published once every Year, at the opening of the first Courts of *General Quarter Sessions of the Peace* for the several Counties within this Province.

Vide an Addition to this Act, 6. Geo. 3. c. 2. 2. Sess.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July*, Anno Domini 1761, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the *Twenty Fifth Day of April*, 1763, in the Third Year of His said Majesty's Reign; being the Third Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for the Relief of the Poor in the Town of *Halifax*.

Act to be read once a Year, at the Quarter Sessions in each County.

C A P. II.

An A C T for Regulating the Proceedings of the Courts
of Judicature.Repealed by His
Majesty in Council.*Addition to this Act 3. Geo. 3. c. 6. 2. Sess. is likewise repealed by Repeal of this Act.*

C A P. III.

An A C T to prevent Frauds in the felling of Beef,
Pork, Flour, and Biscuit, or Ship Bread in Casks.

BE *E* it Enacted by the Lieutenant Governor, Council, and
B *A*ssembly, That from and after the Publication hereof, all
BE Casks of Beef and Pork which shall be sold, exposed to
 Sale, or bartered, or bargained for in any Way or Man-
 ner whatsoever within this Province, shall contain, if the Produce
 of *America*, not less than Two Hundred and Twelve Pounds of
 neat Meat; and if from *Ireland*, not less than Two Hundred
 Pounds of neat Meat*.

Contents of Barrels
of Beef and Pork.* This first Clause is
repealed by 4 Geo. 3.
Sess. 2. cap. 4. and
the Repeal confirm'd
by His Majesty in
Council.

II. *And be it also Enacted*, That from and after the Publication
 hereof all Flour, Biscuit, or Ship Bread, that shall be sold, bar-
 tered, or exchanged within this Province, shall be so sold, bartered
 or exchanged by Weight only, and in no other Way or Manner
 whatsoever.

Flour and Biscuit to
be sold by Weight.

III. *And be it further Enacted*, That no Person or Persons
 whatsoever shall hereafter presume to sell, barter, or exchange
 any Flour, Biscuit, or Ship Bread, by the Cask, or in any
 other Manner whatsoever, other than by Weight as above di-
 rected, on Pain of forfeiting all such Flour, Biscuit, or Ship
 Bread, so sold, bartered or exchanged contrary to the Intent and
 Meaning of this Act: And every Person or Persons offending
 herein and being convicted thereof, shall also further forfeit and
 pay the Sum of Twenty Shillings for every Hundred Weight, and
 so in Proportion for a greater or less Quantity of such Flour, Bis-
 cuit, or Ship Bread, so sold, bartered or exchanged; to be reco-
 vered, together with Costs of Prosecution, on the Oath of One
 credible Witness, before any Two of His Majesty's Justices of the
 Peace for the County where the Offence shall be committed.

If sold in any other
Manner, to be for-
feited,and the Offender
to forfeit 20s. for
every Ct. Weight.Conviction before
two Justices.

IV. *And be it further Enacted*, That all Forfeitures and Penal-
 ties incurred and arising by this Act shall be applied and disposed
 of in Manner following, (*that is to say*) all Flour, Biscuit or Ship
 Bread,

Application of For-
feitures and Pe-
nalties.

Bread, which shall be forfeited by Virtue of this Act, shall be applied to the Use of the Poor of the Town or Place where the Offence shall be committed; and all and every other Penalties incurred by this Act, shall be applied to the Use of the Person or Persons who shall inform and sue for the same.

V. *Provided always*, That all Prosecutions to be brought by Virtue of this Act, shall be commenced within Ten Days after the Offence committed.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July*, Anno Domini 1761, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Nineteenth Day of *October*, 1763, in the Third Year of His said Majesty's Reign; being the Fourth Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An Act in Addition to, and Amendment of an Act intituled, *An Act for appointing Commissioners of Sewers, made and pass'd in the 34th Year of His late Majesty's Reign**.

Preamble.

HEREAS it has been represented, that the Commissioners of Sewers appointed by an Act intituled, An Act for appointing Commissioners of Sewers, made and pass'd in the 34th Year of His late Majesty's Reign, are not sufficiently im-
powered

Prosecution to be
within ten Days,

* 34. Geo. 2. c. 7.

powered by the said Act to recover from the several Persons neglecting or refusing to make Payment of his, her, or their Parts or Proportions of the Sums set, and assessed by the said Commissioners for the repairing or making the Dykes, and Drains necessary, for the Preservation of the Lands thereby rendered profitable; Be it therefore Enacted, by the Lieutenant Governör, Council and Assembly, That upon Complaint being made on Oath, before any One of His Majesty's Justices of the Peace for the County where such Complaint lies, by the Collector or Collectors appointed by the Commissioners of Sewers, for the collecting or gathering the Assessments made by the said Commissioners, the said Justice upon such Complaint, is hereby empowered and authorized, to grant a Warrant under his Hand and Seal, directed to any One of the Constables for the said County, to levy of and from the Goods and Chattels of such Person or Persons so neglecting or refusing to pay his, her, or their Part or Proportion of such Assessment, by Distress and Sale of the said Goods and Chattels, the full Sum so assessed with Costs for prosecuting the same, which Costs shall not exceed the Sum of Five Shillings, and for want of Goods and Chattels to apprehend the Bodies of all such Delinquents, and commit them to safe Custody, till full Satisfaction and Payment be made as aforesaid.

Justices empowered to grant Warrants for levying Assessments on the Goods; &c. of such as refuse to pay.

with Five Shillings Colls.

II. And be it further Enacted, That if any Proprietor or Proprietors of the Lands so dyked in, or drained, are absent, and no Person appearing in their Behalf, and have not any Goods or Chattels to answer his, her, or their Dividend or Proportion of such Assessment made as aforesaid, it shall and may be lawful for any One of His Majesty's Justices of the Peace for the County where such Lands lie, to let out any Part of such Delinquents Lands, that may be sufficient to pay by the Produce of the same, any such Dividend or Proportion of the Sum so due,

Absentee's Lands to be let for Payment of the Assessment.

Vide a further Addition to this Act, 5. Geo. 3. c. 4.

C A P. II.

An ACT to prevent Nuisances by Hedges, Wears, and other Incumbrances, obstructing the Passage of Fish in the Rivers in this Province.

HEREAS the erecting or setting up Hedges, Wears, Fish-garths or other Incumbrances, or placing Sines across any River to stop, obstruct, or straiten the natural Course and Passage of Fish in their Seasons for spawning, must be very detrimental, and may entirely destroy the Salmon, Bas, Shad, Ailwive, and Gaspero Fishery; which the new Settlers in general depend on, in

Preamble.

River Fishery to be regulated by the Justices in their Quarter Sessions.

a great Measure for their Subsistence; Therefore in order to preserve that valuable Support to the Inhabitants of this Province: *Be it Enacted by the Lieutenant Governor, Council and Assembly, That the Justices in their first General Quarter Sessions held in each County, annually, shall and are hereby impowered and directed to make Rules and Orders for the Regulation of the River Fishery in their respective Counties, as they from Time to Time shall find necessary for the Preservation thereof.*

Persons transgressing the Regulations to forfeit £. 10.

II. *And it is hereby further Enacted, That if any Person or Persons shall presume to erect or set up any Hedge, Wear, Fishgarth, or other Incumbrance, or place any Seine or Seines across any River in this Province, contrary to the Rules and Regulations so fixed on, and established by the Justices in their said General Quarter Sessions annually, such Person or Persons shall, upon due Conviction thereof forfeit and pay the Sum of Ten Pounds, One half of which shall be for the Informer, and the other half for the Poor of the Township, where the Offence shall be committed, to be recovered by Action, Bill, Plaint or Information in any of His Majesty's Courts of Record.*

One half to the Informer, the other to the Poor.

III. This Act to continue, and be in Force for the Space of Two Years from the Publication hereof, and until the End of the Session then next following.

Act to continue Two Years.

This Act made perpetual by 6. Geo. 3. c. 1.

C A P. III.

An Act to enable Proprietors of Lands to Assess and discharge the Expence which has accrued upon Dividing their Lands, by Virtue of a former Law of this Province.

Preamble.

***** *HERE AS by an Act of this Province intituled, "An Act to enable Proprietors to divide their Lands, held in Common and undivided," sundry Proprietors of Lands within this Province, have proceeded to a Division under the Sanction of the aforesaid Act, which has since been repealed; And Whereas considerable Expence has attended the making such Division, Be it Enacted by the Lieutenant Governor, Council, and Assembly, That all Persons, Proprietors of Lands within this Province, who by Virtue of an Act intituled, An Act to enable Proprietors to Divide their Lands, held in Common and undivided, have heretofore by a Majority of the Proprietors, agreed upon, and divided their Lands, under the Sanction, and agreeable to the Direction of the said recited Act; each*

Proprietors of Lands held in common to pay their dividend of the Expence of dividing them.

and

and every such Proprietor shall pay their Dividend or proportional Part of all such Expence, as may have arisen from the making such Division.

II. *And be it further Enacted,* That all Accounts of Expences incurred for the Services aforesaid shall, before Payment, be laid before the Justices of the Peace for each County, in their *Quarter Sessions*, who are hereby impowered to appoint proper Persons to audit said Accounts, and to make a Dividend to each Right or Share of Land in such Propriety, in just and equal Proportion; which Dividend or Proportion, when approved of by the said Court of *Quarter Sessions*, shall be paid by each Proprietor or Person in Possession of such Lands, to the Person or Persons to be appointed by the Propriety to receive the same; and if any Proprietor or other Person in Possession of any Right or Share of Land, divided as aforesaid, shall refuse or neglect to pay his, her, or their respective Dividend or Proportion as aforesaid, it shall and may be lawful on Complaint of such Receiver appointed as aforesaid, for any One of His Majesty's Justices of the Peace to issue a Warrant of Distress and Sale of the Delinquents Goods and Chattels, for the Recovery of the same, with the Charges of Prosecution.

The Accounts of such Expences to be audited by order of the *Quarter Sessions*, and approved by them, and each Proprietor to pay his Share.

III. *And be it further Enacted,* That if any Proprietors of Lands, divided as aforesaid, be absent, and no Person appearing in their Behalf, or shall be present, and have not any Goods or Chattels to answer his, her, or their Dividend or Proportion of Expences as aforesaid, it shall and may be lawful for any One of His Majesty's Justices of the Peace, residing in the Township where such Lands lie, to let out any Part of such Delinquent's Land, that may be sufficient to pay, by the Produce of the same, any such Dividend or Proportion then due.

One Justice to let the Lands of Persons unable to pay, till their Dividend is made up.

IV. *Provided always,* That if any Person or Persons shall think themselves aggrieved by any Justice of the Peace, concerning the letting their Lands as aforesaid, such Person or Persons may complain to the Justices of the County in their *Quarter Sessions*, who are hereby impowered to hear and determine all such Complaints.

Persons aggrieved thereby may complain for Redress to the *Quarter Sessions*.

C A P. IV.

An ACT to impower the Province Treasurer to borrow a Sum not exceeding the Sum of *Four Thousand Pounds*, for paying off Bounties, Premiums, and other Debts payable by the Laws of this Province.

Preamble.

HEREAS the Impost and Excise Duties have hitherto been insufficient for the Discharge of the Debts due for Bounties, Premiums, and other Debts payable by the Laws of this Province; And Whereas there are many Persons who now are possessed of Certificates for Bounties, Premiums, and other Accounts, which are now due and become payable, but from the present State of the Province Funds, cannot be immediately discharged; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That the Treasurer of the Province be and is hereby impowered and directed, to borrow from such Person or Persons as shall be willing to lend the same, a Sum not exceeding Four Thousand Pounds, and the Sum so borrowed shall be applied in manner as in this Act is hereafter directed, and for any Sum or Sums so borrowed, the Treasurer aforesaid shall give his Receipt or Obligation in the Form following;

Province Treasurer to borrow £4000. And to give a Receipt for the Sums borrowed.

Province NOVA SCOTIA, the Day of 17

Form of the Receipt.

RECEIVED of the Sum of for the Use and Service of the Province of Nova Scotia, and in Behalf of said Province I do hereby promise and oblige myself, and Successors in the Office of Treasurer, to repay the said or order, the Day of the aforesaid Sum of with Interest at the Rate of Six Pounds per Centum per Annum. Witness my Hand.

Such Receipts to bear Interest at 6. per Cent.

II. And be it further Enacted, That all Receipts so issued by the Treasurer of the Province, shall according to the Tenor thereof, bear an Interest at the Rate of Six Pounds per Centum per Annum, and so in Proportion for a greater or a lesser Sum, and the Treasurer is hereby directed not to borrow, or give his Receipt for any Sum less than Five Pounds.

Money borrowed to be applied to pay Bounties, &c.

III. And be it also further Enacted, That the Sum so borrow'd shall be applied to the Payment and Discharge of the Bounty Certificates and Premiums which are or shall become due and payable on or before the Twenty Fifth Day of March, One Thousand Seven Hundred and Sixty Four, and for all other Debts, which became due and payable by the Laws of this Province on or before

fore the Twenty Fifth Day of March, One Thousand Seven Hundred and Sixty Three.

IV. *Provided*, That the Accounts and Vouchers of all such separate Debts, shall be first regularly audited, and certified to be justly due.

Accounts, &c. to be audited.

V. *Provided also*, That if the Province Treasurer should (by a Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Case any Person or Persons, who shall present Bounty Bills or Accounts of Money due from the Government, properly authenticated, said Notes or Accounts may be received by the Treasurer, who is hereby directed to give his Receipt for the said Sum, bearing Interest in Manner herein directed.

Bounty Bills, &c. to be received as Cash by the Treasurer.

VI. *And provided always, and be it further Enacted*, That if there should not be Money sufficient in the Treasury to discharge the several Receipts so issued, when the same become payable, that then and in such Case the Treasurer is hereby authorized and directed, to pay off the Interest as the same becomes annually due, out of such Monies as may then be in his Hands arising from the Duties of Impost and Excise.

Interest to be paid Annually until the Principal shall be paid.

VII. *And Whereas the Act, intituled, "An Act to enable the Governor, Lieutenant Governor, or Commander in Chief, to borrow the Sum of Four Thousand Five Hundred Pounds, for paying off the publick Debts, and to postpone the Payment of Bounties and Premiums," has been found insufficient to discharge the whole of the Bounties and Premiums, that were to have been discharged with the Money borrow'd by the said Act, as sundry of the said Bounty and Premium Certificates are still outstanding; And Whereas it is reasonable that such Certificates should bear Interest, as they could not then be paid; Be it therefore Enacted*, That the Treasurer aforesaid shall rate and allow Interest at the Rate of Six Pounds per Centum per Annum, on all such outstanding Certificates, from the Date of the last Warrant, granted in Virtue of the said Loan Act, for Cash or Certificates received in at the Treasury.

Interest to be allowed on all Bounty bills outstanding.

VIII. *And Whereas several of the principal Bounties and Premiums, granted by the Laws of this Province, are now expired, and others near expiring; And Whereas the several Duties granted to His Majesty by the Laws of this Province, for Payment of Bounties, Premiums and other Accounts, will not expire before the End of the Year One Thousand Seven Hundred, and Seventy One, whereby the Treasury will be constantly supplied with considerable Sums of Money, much more than will be wanted for paying off the Interest of Money borrow'd; Be it further Enacted*, That all Monies, which may be collected by Virtue of the several Laws of this Province, wherein the same is appropriated

Monies collected for Duties now to be applied

propriated for the Payment of Bounties, Premiums, and other Accounts payable by the Laws of this Province, over and above what will pay the Interest of Money borrow'd by the Government, shall (after discharging the former Loan Creditors) be applied for paying off the Receipts given by the Treasurer for Monies borrow'd, or Bounty and Premium Certificates received, by Virtue of this Act.

C A P. V.

An Act for the Relief of Insolvent Debtors.

Persons charged in Execution may apply by Petition, to the Court from whence the Process issued, or to Two Justices in Vacation, to be discharged,

on giving an Account of their Real and Personal Estate.

The Court or Justices to make an Order to call the Creditors before them.

If Creditors fail to appear, the Court or Justices may examine into the Matter of the Petition,

and tender an Oath to the Prisoner.

Enacted by the Honorable the Lieutenant Governor, Council, and Assembly, That from and after the End of this present Session, if any Person or Persons now charged, or who shall or may hereafter be charged in Execution for any Sum or Sums of Money, and shall be minded to deliver up to his, her, or their Creditors, all his, her, or their Effects, towards the Satisfaction of the Debts, wherewith he, she, or they stand charged, it shall and may be lawful to and for such Prisoner to exhibit a Petition to any of the Courts of Law within the said Province, or during the Intervals of the Sitting of such Courts, to any Two of the Justices of any such Courts, from whence the Process issued, upon which he, she, or they was or were taken or charged in Execution, certifying the Cause or Causes of his, her, or their Imprisonment, and an Account of his, her, or their whole Real or Personal Estate, with the Dates of the Securities wherein any Part of it consists, and the Deeds or Notes relating thereto, and the Names of the Witnesses thereto, as far as his, her, or their Knowledge extends therein; and upon such Petition the said Court or the said two Justices may, and are hereby required by Order or Rule of the said Court, or by Order under the Hands and Seals of the said Two Justices, to cause the said Prisoner to be brought up to the said Court, or before them the said Two Justices, and the several Creditors at whose Suit he, she, or they stand charged as aforesaid, to be summoned to appear personally, or by their Attorney in the said Court, or before them the said Two Justices, at a Day to be appointed for that Purpose; and upon the Day of such Appearance, if any of the Creditors summoned refuse or neglect to appear, upon Affidavit of the due Service of such Rule or Order of the said Court, or Order of the said Two Justices, the said Court or the said Two Justices shall and may in a summary Way, examine into the Matter of such Petition, and hear what can or shall be alledged on either Side, for or against the Discharge of such Prisoner, and upon such Examination the said Court or the said Two Justices may, and are hereby required to administer or tender to the Prisoner, an Oath to the Effect following,

ing, which Oath the said Court, or the said Two Justices are hereby impowered to Administer.

I A. B. Do solemnly Swear in the Presence of Almighty G O D, The Oath.
that the Account by me deliver'd into

In my Petition to

Doth contain a true and full Account of all my Real and Personal Estate, Debts, Credits, and Effects whatsoever, which I, or any in Trust for me, have, or at the Time of my said Petition had, or am or was in any Respect intitled to in Possession, Remainder, or Reversion, (except the Wearing Apparel and Bedding for me or my Family, and the Tools or Instruments of my Trade or Calling, not exceeding Ten Pounds in the whole) and that I have not at any Time since my Imprisonment or before, directly or indirectly, sold, leased, assigned or otherwise disposed of, or made over in Trust for myself, or otherwise, other than as mentioned in such Account, any Part of my Lands, Estate, Goods, Stock, Money, Debts, or other Real or Personal Estate, whereby to have or expect any Benefit or Profit to myself, or to defraud any of my Creditors, to whom I am indebted.

So help me G O D.

II. *And be it further Enacted, That in Case the said Prisoner shall in open Court, or before the said Two Justices, take the said Oath, and upon such Examination and his or her taking the said Oath, the Creditors shall be satisfied with the Truth thereof, the said Court or the said Two Justices may immediately order the Lands, Goods, or Effects, contained in such Account, or so much of them as may be sufficient to satisfy the Debts wherewith he, or she, is or shall be charged, and the Fees due to the Provost Marshal of the said Province, and the Keeper of the Gaol or Prison from which the Prisoner was brought, to be by a short Indorsement on the Back of the said Petition, signed by the Prisoner, assigned to the said Creditors, or to one or more of them, in Trust for the rest of the said Creditors, and by such Assignment, the Estate, Interest, and Property of the Lands, Goods, Debts, and Effects so assigned, shall be vested in the Person or Persons to whom such Assignment is or shall be made, who may take Possession of, or sue for the same in his, or their own Name or Names in like Manner as Assignees of Commissioners of Bankrupts, to which Suit no Release of the Prisoner, his, or her Executors, or Administrators, or any Trustees for him or her, subsequent to such Assignment, shall be any Bar; and immediately upon such Assignment executed, the said Prisoner shall be discharged out of Custody by Order of the said Court, or of the said Two Justices, and such Order shall be a sufficient Warrant to the Provost Marshal, Gaoler, or Keeper of such Prison, to discharge the said Prisoner, if detained for the Causes mentioned in such Petition and no other; and he is hereby required to dis-*

If the Creditors are satisfied of the Truth of the Prisoner's Oath, the Court or Justices may order the Lands, &c. to be assigned to the Creditors,

and the Prisoner to be discharged.

charge and set him, or her at Liberty forthwith without Fee: Nor shall such Provost Marshal, or Gaoler, be liable to any Action of Escape or other Suit or Information upon that Account, and the Person or Persons to whom the said Effects shall be assigned, paying the Fees to said Provost Marshal, Gaoler or Keeper of the Prison, in whose Custody the Party discharged was, shall and are hereby required to divide the Effects so assigned among themselves, and all the Persons for whom they shall be intrusted, in Proportion to their respective Debts: But in Case the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the Oath of such Prisoner before the Two Justices aforesaid, and shall desire further Time to inform himself or herself of the Matters contained therein, and shall insist upon his, or her, being detained longer in Prison, at his or their Suit; then the said Justices shall and may remand the said Prisoner, and direct the said Prisoner, and the Person or Persons dissatisfied with such Oath, to appear before the Court whence the Process issued as aforesaid, at a certain Day during the Sitting of the said Court then next following such Examination, and to be by them at that Time appointed, for the further Examination of the Matters contained in the said Oath; Provided the said Person or Persons so dissatisfied, do agree by Writing under his or their Hands, to supply and allow Weekly the full Quantity of Eight Pounds of good and wholesome Biscuit Bread per Week unto the said Prisoner, to be so supplied and allowed the First Day of every Week from and after the Time of such Prisoner's being foremaned, until the said Day so appointed for the further Examination of the Truth of the Matters contained in the aforesaid Oath before the said Court as aforesaid; on Failure of the supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith upon Application to the said Court, or to the said Two Justices, be discharged by such Order as aforesaid; but in Case the said Prisoner shall refuse to take the Oath before the said Two Justices, or having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded.

III. *And be it also Enacted,* That such Judgment, Relief, and Directions by the said Two Justices, so to be given as aforesaid, shall be as good and effectual to all Intents and Purposes, as if the same had been made in the Court out of which the Process issued, on which such Prisoner was taken in Execution; and the like Proceedings shall be had thereupon, and a Record of such Judgment shall be made up in the same Form, and returned, and certified under the Hands of such Two Justices before whom it shall be made, unto the Court from whence the Process on which such Prisoner was taken in Execution issued, to be a Record of the said Court, and to be kept as such amongst the Records there.

IV. *And be it further Enacted,* That if on the Appearance of such Prisoner or Prisoners before the said Court as aforesaid, at
suc.

Prisoner's Lands,
&c. to be divided
among the Credi-
tors.

If Creditors are not
satisfied of the Truth
of the Prisoner's
Oath, before the
Two Justices; the
Prisoner to be
remanded, and the
Matter further en-
quired of by the
Court,

and such Creditors
to allow the Priso-
ner Eight Pounds
of Biscuit per Week,
in the mean Time,
on Failure whereof
the Prisoner to be
discharged.

Proceedings of the
Two Justices to be
effectual, and a Re-
cord thereof to be
made and returned
to the Court.

such second Day so to be appointed by the said Two Justices, the Creditor or Creditors of such Prisoner or Prisoners dissatisfied with the Truth of such Oath, before the said Two Justices, shall make Default in appearing; or in Case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner omitted in such his, or her Petition; or to shew any Probability of his, or her, having been forsworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged upon such Assignment of his or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his, or her, being detained longer in Prison at their Suit, and do agree by Writing under his, her or their Hands, to supply and allow Weekly the full Quantity of Eight Pounds of good wholesome Biscuit Bread per Week, unto the said Prisoner, to be supplied and allowed the first Day of every Week, so long as he, or she shall continue in Prison at his, her, or their Suit as aforesaid; on Failure of the Supply of which weekly Allowance at any Time, the Prisoner shall forthwith, upon Application to the said Court, or during the Interval of such Courts Sitting, to the said Two Justices, be discharged by such Order as aforesaid:

If upon the Prisoner's appearing before the Court, the Creditors shall not appear, or shew a Probability, that the Prisoner is forsworn, &c. the Prisoner to be discharged, unless the Creditor insist on his being longer detained, & agree to the Weekly Allowance of Bread;

on Failure whereof, the Prisoner to be discharged.

V. *And be it Enacted*, That in case on the Appearance of the said Prisoner, before any of the said Courts of Law in this Province, on his Petition to them at any Time during their Sitting, preferred as aforesaid, the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the said Prisoner's Oath, at that Time made, but shall desire further Time to inform himself or herself of the Matters contained therein, the said Court may and shall remand the said Prisoner, and direct the said Prisoner, and the Person or Persons dissatisfied with such Oath, to appear at another Day to be appointed by the said Court sometime within and during their then present Sessions, for that Purpose; subject in the mean Time and until such second Day, to the same Allowance to the said Prisoner, by such Person or Persons so dissatisfied with the said Prisoner's Oath, and liable to the like Discharge in Case of Default of such Allowance as is herein before directed, upon Application to the said Two Justices as aforesaid: And if at such second Day so to be appointed, the Creditor or Creditors dissatisfied with such Oath, shall make Default in appearing, or in Case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner, omitted in such his or her Petition, or to shew any Probability of his, or her having been forsworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged, upon such Assignment of his, or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his, or her, being longer detained in Prison at their Suit, and do agree by Writing under his, her, or their Hands, to supply and allow Weekly the Quantity of Eight Pounds of good

Proceedings when the Prisoner petitions during the Sitting of the Court.

and wholesome Biscuit Bread per Week, unto the said Prisoner, to be supplied and allowed the first Day of every Week, so long as he, or she, shall continue in Gaol, at his, her, or their Suit; on Failure of the supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith upon Application to the Court, or during the Interval of such Courts Sitzings, to any Two Justices of the said Court, be discharged by such Order as aforesaid; but in Case the said Prisoner shall refuse to take the said Oath, or having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded.

Time limited for Prisoners to present their Petitions.

VI. *And to prevent Persons who may be charged in Execution from lying in Prison, until they have spent their Substance wherewith they should satisfy their Creditors, and afterwards taking the Benefit of this Act, where they have nothing left to deliver up to their Creditors; it is hereby Enacted,* That no Person charged or to be charged in Execution, excepting those already in Gaol, shall be allowed or permitted to exhibit a Petition to any of the Courts of Law in this Province, or to any of the said Two Justices of such Courts, from whence the Process issued as is before provided, unless such Petition be exhibited, if before the Court, within Ten Days next after the first Meeting of the said Court which shall be next after such Person shall be so charged in Execution, and if before the said Two Justices, within Fourteen Days next after such Person shall be so charged in Execution :

The Prisoner's Person be discharged, his Lands, &c. to be always liable.

VII. *Provided always,* That tho' the Persons of the Debtor or Debtors so discharged, shall never after be arrested for the same Debt or Debts, yet notwithstanding such Discharge the Judgment against him, or her, shall stand and remain in Force, and Execution may be taken out thereon against his, or her Lands, Tenements, or Hereditaments, Goods, and Chattels, (his, or her Wearing Apparel, Bedding for him, or herself and Family, and necessary Tools for the Use of his or her Trade or Occupation excepted) in the same Manner as if he or she had never been taken in Execution for the said Debt.

If Prisoner afterwards be convicted of Perjury in said Oath, he shall suffer all the Pains of wilful Perjury,

VIII. *Provided also,* That if any Person who shall take such Oath as aforesaid, before the said Two Justices, or before the said Court as aforesaid, shall upon any Indictment for Perjury, in any Matter or Particular contained in the said Oath, be convicted by his, or her own Confession, or by Verdict of Twelve Men, as he, or she, may be by Force of this Act, the Person so convicted shall suffer all the Pains and Forfeitures which by Law be inflicted on any Person convicted of wilful Perjury, and shall be liable to be taken upon any Process *de novo*, and charged in Execution for the said Debt, in the same Manner as if he, or she, had never been discharged or taken in Execution before, and shall never afterwards have the Benefit of this Act.

and may be taken *de novo*, and charged again in Execution for the said Debt.

IX. *Provided*

IX. *Provided also*, That if the Effects so assigned, shall not extend to satisfy the whole Debts due to the Persons at whose Suit he or she was charged, and the Fees due to the said Provost Marshal or Gaoler, there shall be an Abatement in Proportion; and such Provost Marshal or Gaoler shall come in as a Creditor, for what shall be then due to him for his Fees, in Proportion with the Creditors at whose Suit he or she was charged in Execution.

Provost Marshal or Gaoler to come in as a Creditor for their Fees.

X. *And be it likewise Enacted*, That every Provost Marshal or his Deputy, Bailiff, or other Officer or Minister aforesaid, offending against this Act, shall (over and above such Penalties or Punishments as he shall be liable unto, by the Law now in Force) for every Offence against this present Act, forfeit and pay to the Party thereby grieved, the Sum of Fifty Pounds, to be recovered with treble Costs of Suit, by Action of Debt, Bill, Complaint, or Information, in any of the Courts of Law within this Province, wherein no Essoign, Protection, or Wager of Law, or more than one Impar lance shall be allowed.

Provost Marshal &c. offending against this Act, forfeits £50.

XI. *And be it Enacted*, That in Cases wherein by this Act an Oath is required, the solemn Affirmation of any Person being a Quaker, shall and may be accepted and taken in Lieu thereof, and every Person making such Affirmation, who shall be convicted of wilful and false Affirming, shall incur and suffer such and the same Pains, Penalties and Forfeitures, as are inflicted and imposed by the Laws and Statutes now in Force, upon Persons convicted of wilful and corrupt Perjury.

Quakers Affirmation to be taken instead of an Oath.

XII. *Provided nevertheless*, That nothing in this Act contained, shall extend or be construed to extend, to discharge any Debtor imprisoned, the whole Amount of whose Debts shall exceed the Sum of One Hundred Pounds; nor that this Act shall be in Force, till His Majesty's Pleasure be known therein.

No Debtor to be discharged, whose Debts exceed £100. Act suspended till His Majesty's Pleasure be known.

Confirmed by His Majesty in Council.

C A P. VI.

An A C T in Addition to an Act, intituled, *An Act for regulating the Proceedings of the Courts of Judicature.*

Repealed by His Majesty in Council.

C A P. VII.

An A C T to enable the Inhabitants of the several Townships within this Province, to maintain their Poor.

E it Enacted, by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof, it shall and may be lawful for the Freeholders of any Township within this Province, where there are Fifty or more Families Freeholders resident, to meet on the First Monday in January Annually, previous Notice being given by the Constables of such Townships respectively (who are hereby required to notify the same to the Freeholders of each Township, at least Ten Days before the Time of Meeting) of the Time and Place of Meeting in such Township, at which Meeting of the said Freeholders then and there held, a Chairman being first chosen, the Freeholders shall proceed to choose Twelve Inhabitants of the said Township, any Nine of which to be a *Quorum*; who are hereby impowered to assess the Inhabitants of said Township for such Sum, as shall be granted by the said Freeholders for the Relief of their Poor.

II. *And be it further Enacted*, That the said Freeholders in such their annual Meeting, shall be and are hereby impowered to vote such Sums of Money as they shall judge necessary for the current Year to support and maintain their Poor.

III. *And be it also further Enacted*, That the Twelve Inhabitants so elected in the Meeting Annually, or any Nine of them, shall be, and are hereby impowered to assess the Freeholders, and other Inhabitants, in just and equal Proportion as near as may be, for the Monies voted as aforesaid; and each particular Person being assessed according to his known Estate, either Real or Personal, for the Purpose aforesaid, shall pay the same to such Person or Persons as shall be appointed to collect and receive the same, by the said elected Inhabitants, or any Nine of them, and if any Person so assessed, shall refuse or neglect to pay said Assessment, the same shall and may be levied by Warrant of Distress from any One of His Majesty's Justices of the Peace of the Township, or County wherein such Person shall reside.

IV. *Provided nevertheless*, That if any Person shall think himself over rated, he may appeal for Redress to the next *General Sessions of the Peace* of the said County, and the Justices thereof are hereby required and impowered to examine, hear, and determine,

Freeholders of any Township where 50 Families are resident, may meet on the first Monday in every Year, and choose Twelve Persons to assess the Inhabitants for such Sum as shall be granted for Relief of the Poor.

Such Freeholders to vote a Sum Annually for Relief of their Poor.

Such Assessors to assess the Freeholders in equal Proportions, who shall pay the same to the Collector,

on Refusal or Neglect, the same to be levied by Warrant of Distress from one Justice.

Persons aggrieved may appeal to the next Sessions.

termine all and every such Appeal or Complaint, and to give Redress as they in their Judgment shall think equitable, and such their Order and Judgment shall be final and bind all Parties.

V. *And be it Enacted*, That the Person or Persons appointed to collect the Assessments aforesaid, shall, once in Three Months, account with and pay into the Hands of the Overseers of the Poor of said Township, all such Sums of Money as he or they may have received, and upon his or their Neglect or Refusal to account and pay in the same as aforesaid, such Person or Persons shall and may be prosecuted by the Overseers of the Poor for the Time being, by Bill, Plaint, or Information, in any of His Majesty's Courts of Record within this Province.

Collector to account with and pay to the Overseers of the Poor, once in Three Months, all Monies by him received,

on Refusal or Neglect he may be prosecuted in any Court of Record.

VI. *And be it also Enacted*, That the Overseers of the Poor of each Township respectively, shall dispose of the Monies voted and received for the Purpose before mentioned only, and they are hereby required and directed to render an Account thereof to their Successors, and to pay into their Hands any Surplus of Money, that may remain in their Hands not distributed.

Overseers of the Poor to apply the Monies to the Relief of the Poor, & pay any Surplus in their Hands, to their Successors.

VII. *And be it further Enacted*, That if any of the Twelve Inhabitants chosen at the annual Meeting as aforesaid, to make the Assessment aforesaid, or the Person or Persons appointed to collect the same, shall refuse to serve in their respective Offices, each Person so refusing shall forfeit and pay to the Overseers of the Poor, for the Use of the Poor of said Township, the Sum of Forty Shillings.

Persons refusing to serve as Assessor, or Collector, forfeit 40s.

C A P. VIII.

An ACT to explain and amend an Act, made and pass'd in the 32d Year of His late Majesty's Reign, intituled *An Act for making Lands and Tenements liable to the Payment of Debts.*

32. Geo. 2. c. 15.

*** HEREAS in the first Clause of an Act made and passed in the 32d Year of His late Majesty's Reign, intituled An Act for making Lands and Tenements liable to the Payment of Debts, It is among other Things Enacted, "That the Person or Persons in Possession of any Lands and Tenements on which the Provost Marshal or his Deputy shall extend the Execution of any Judgment on the Rents only, and shall cause the Person or Persons in Possession, whether Debtor or Debtors, or their Tenant or Tenants, to attend and become Tenants to such Creditor or Creditors;" And Whereas many Doubts have arisen concerning such Deb-

Preamble

" tor

tor or Debtors, or Persons in Possession, refusing to attorn and become Tenants, and neglecting or refusing to pay the Rents as the same become due; Be it therefore Enacted by the Lieutenant Governor, Council, and Assembly, That every such Debtor or Debtors, or Persons in Possession of the Premises, on which Execution shall be extended, who shall refuse to attorn as Tenants to the Creditor or Creditors, at the Rent fixed by the Appraisers; or shall neglect or refuse to pay the Rent as it becomes due, then and in either of these Cases, the Person or Persons in Possession of the said Lands or Tenements, shall be deemed as guilty of a wrongful Detainer, and shall and may be prosecuted as is directed in and by an Act made and pass'd in the 32d Year of His late Majesty's Reign, intitled, *An Act directing the Proceedings against forcible Entry or Detainer,*

Debtors refusing to attorn as Tenants to the Creditor, may be proceeded against according to the Act against forcible Entry or Detainer.

32. Geo. 2. c. 3.

II. *And Whereas in the second Clause of the before recited Act, it is among other Things Enacted, " That the Provost Marshal or his Deputy shall immediately deliver Seizin and Possession to such Creditor or Creditors, of all Lands and Tenements, the yearly Rents of which shall not be sufficient to satisfy the Debt, Cost, and Interest, together with the Charge of needful Repairs, and cause the Person or Persons in Possession or Improvement thereof to attorn and become Tenants to such Creditor or Creditors, and pay their Rent to him or them."* And Whereas this Part of the said Act has been found insufficient to answer the Purpose thereby intended; Be it therefore further Enacted, That in Case the Tenant or Tenants, or other Person in Possession or Improvement of all such Lands or Tenements, on which such Execution shall be levied, shall refuse to attorn and become Tenants to the Creditor or Creditors, at such Rents as the said Creditor or Creditors shall think reasonable, and pay the same as it becomes due, that then and in either of these Cases, the Person or Persons in Possession of the said Lands or Tenements shall be held and deemed wrongful Detainers of the Premises, and shall and may be prosecuted as is herein before directed.

Persons in Possession refusing to attorn as Tenants to the Creditor, to be proceeded against in like manner.

III. *And be it Enacted,* That the Attornment, shall be in the Form following.

Form of the Attornment.

" I. A. B. of _____ do hereby attorn and become
 " Tenant to C. D. of _____ for _____ for the
 " Term of _____ at the yearly Rent of
 " _____ per Annum; the said Rent to be paid Quarterly,
 " with Liberty for the said C. D. or his Attorney to enter into
 " said Premises and distrain for the said Rent, if in Arrear;
 " in Consideration of which Attornment I have paid the said
 " C. D. the Sum of One Shilling. Witness my Hand at
 " _____ the _____ Day of _____
 " Witness _____

C A P. IX.

An ACT in Addition to an Act, intituled *An Act for regulating and maintaining an House of Correction or Work House within the Town of Halifax, and for binding out poor Children*, made and passed in the Thirty Third Year of His late Majesty's Reign. 33. Geo. 2. c. 1.

WHEREAS several Inconveniencies have arisen for want of sufficient Directions being given in the Act, made and passed in the Thirty Third Year of His late Majesty's Reign, intituled "An Act for regulating and maintaining an House of Correction or Work House within the Town of Halifax, and for binding out poor Children," touching the regulating and governing the Work House, erected in the Town of Halifax; and other Matters intended to be provided for by the said Act; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the Publication hereof, the ordering and governing the said House of Correction or Work House, shall be in the Justices of the Peace in their Quarter Sessions, (except three Rooms, which shall be reserved for the Reception of the Poor, under the Direction of the Overseers of the Poor) and the said Justices are hereby also empowered to agree with any Person to be Master or Keeper of the said House, (excepting the three Rooms before excepted) upon the best Terms they can, for such Time as they shall think adviseable, publick Notice being first given in the *Halifax Gazette* for that Purpose; and such Master or Keeper shall account with the said Justices in Sessions, once in every Three Months, (if required) therein stating as well the Expences of attending the said House, as all the Earnings of the same.

Preamble.

The Workhouse to be under the Direction of the Justices in Quarter Sessions, (except three Rooms for the Reception of the Poor, which shall be under the Direction of the Overseers of the Poor) who shall agree with a Keeper of the said House, &c.

II. *And be it further Enacted*, That the said Justices shall nominate Three of their Bench Quarterly, to have the Inspection of the said Work House, One of which Justices in Rotation shall visit the same at least once every Week, to see that such Persons as shall be committed thereto, are kept diligently to Work; and to rectify any Abuses that may be found in the Management thereof.

Three of the said Justices to have the Inspection of the said House, one of whom shall visit the same once every Week.

III. *And Whereas*, by the said Act, sick and weak Persons unable to Work, are directed to be sent to the said House of Correction, to be there taken Care of and relieved, which has been attended with great Expence, for Remedy whereof, Be it Enacted, That it shall be in

Sick and weak Persons to be sent to the Workhouse, by the Overseers of the Poor only, to be there relieved.

the Power of the Overseers of the Poor of the Town of *Halifax* only, to send such sick and weak Persons to the Work House, there to be relieved by their Direction, and the Expence thereof to be defrayed out of such Taxes, or Poor's Rate, as shall be granted and collected for the Town of *Halifax*.

The Clause relating to the binding out poor Children, to extend through the Province.

IV. *And Whereas the Clause in the said Act, relating to the binding out poor Children and Orphans, is confined to the Town of Halifax only, which if extended to the other Towns in the Province, might be attended with many good Effects, Be it therefore Enacted, That the said Clause in the before recited Act, relating to the binding out poor Children and Orphans, and all the Directions therein contained, shall for the future extend, and be construed to extend, to all the other Towns in this Province.*

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July, Anno Domini 1761*, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Twenty Second Day of *March 1764*, in the Fourth Year of His said Majesty's Reign; being the Fifth Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An A C T for amending Defects in Pleas, Processes and Records.

Eng Stat. 8. H. 6.
§ 12. Sect. 1. 2.

No Judgment, &c. to be reversed for any Writ razed or interlined.

Be it Enacted by the Lieutenant Governor, Council, and Assembly, That for Error in any Record, Process or Warrant of Attorney, Original Writ or Judicial, Panel or Return, in any Places of the same razed or interlined, or in any Addition,

tion, Subtraction, or Diminution of Words, Letters, Syllables, or Titles found therein, no Judgment or Record shall be reversed or annulled, but the Judges of the Courts before whom such Records and Processes shall be depending, shall have Power to examine such Records; Processes, Words, Pleas, Warrants of Attorney, Writs, Panels, or Return, by them and their Clerks, and to reform and (a) amend, in Affirmance of the Judgments of such Records and Processes, all that which to them in their Discretion seemeth to be Misprision of their Clerks, in such Record, Processes, Word, Plea; Warrant of Attorney, Writ, Panel and Return (a); except Appeals, Indictments of Treasons and Felonies, and the Outlawries for the same, † and the Substance of the proper Names, Surnames; and Additions left out in Original Writs, and Writs of Exigent, and any other Writs containing Proclamation.

The Judges may amend all Defects which are Misprision of their Clerk,

Except Appeals, &c.

† 1. Bar. Abr. C. L. p. 95. L. C.

II. *And be it further Enacted by the Authority aforesaid, That* * all Writs of Error, Appeals from Judgments in any Action, Real, Personal, or Mixt, according to the Course of Proceedings in this Province, wherein there shall be any Variance from the Original Record, or other Defect; may and shall be amended and made agreeable to such Record, by the Courts where such Writ or Writs of Error, or such Appeals shall be returnable ‡; and that where any Verdict shall be given in any Action, Suit, Bill, Plaint or Demand, in any of His Majesty's Courts of Record within this Province, the Judgment thereupon shall not be stayed or reversed for any Defect or Fault either in Form or Substance (b), in any Bill, Writ Original or Judicial, or for any Variance in such Writs from the Declaration or other Proceedings.

* Eng. Stat. 5. Geo. 1. c. 13. Writs of Error varying from the Record may be amended.

‡ Eng. Stat. 18. Eliz. c. 14.-16. & 17. Car. 2. cap. 8. 1. Vent. 200. 5. Geo. 1. c. 13. After Verdict no Judgment shall be stayed, &c. for any Defect in any Bill, &c.

III. *Provided nevertbeless, That* nothing in this Act contained, shall extend, or be construed to extend, to any Appeal of Felony

Not to extend to Appeals of Felony, &c.

(aa) By Common Law all Mistakes were amendable the same Term. 8. Co. 156. 157. a. b.

For Amendments in subsequent Terms in Mistakes of Letters and Syllables, vide Eng. Stat. 14. Ea. 3. c. 6. 8. Co. 158. a.

The Eng. Stat. 8. Hen. 6. c. 12. (from which this First Section is transcribed) gives Remedy for Amendment of Original Writs, Processes, &c. See the Exposition of this Statute in *Arthur Blackamore's Case*, 8. Co. 156. a. The Process is as well amendable after Judgment as before by 14. Ed. 3. c. 6. but the Power of amending Records, &c. is only in *Affirmance of the Judgment*, &c. by 8. Hen. 6. c. 12.

(b) Whatever is essential to the Gift of the Action cannot be cured after Verdict, 5. Mod. 286. and what is Substance must be determined in every Action according to its nature, and every Action must have all Essentials necessary to maintain it. *Cro. Eliz.* 778.

Want of Substance in the Count was not amendable, *Freeman's Case*, 5. Co. 45.

Where by Record it appears that Plt. had no Cause of Action, it is not cured by Verdict for Plt. 3. Co. 52. b.

or Murder, or to any Proceſs upon any Indiſtment, Preſentment, or Information, of or for any Offence or Miſdemeanor whatſoever(c).

(c) 1. Bac. Abr. C. L. p. 96. Let. C. Eng Stat. 4. An. c. 16. & 9. Ann. c. 20. Sect. 7.

C A P. II.

An A C T for preventing Abatement and Diſcontinuance of Suits.

Eng. Stat. 8. & 9.
Will. 3. c. 11.
Sect. 6.

1. Salk. 352.

Plaintiff or Defen-
dant dying before
final Judgment,
Action not to abate.

***** E it Enacted by the Lieutenant Governor, Council, and Af-
* B * ſembly, That in all Actions to be commenced in any Court
* of Record, from and after the *First Day of June* next en-
***** ſuing, if any Plaintiff happen to die after an interlocutory
Judgment and before a final Judgment obtained therein, the ſaid
Action ſhall not abate by Reason thereof, if ſuch Action might be
originally proſecuted, or maintained by the Executors or Admini-
ſtrators of ſuch Plaintiff; and if the Defendant die after ſuch
interlocutory Judgment and before final Judgment therein obtain-
ed, the ſaid Action ſhall not abate, if ſuch Action might be origi-
nally proſecuted, or maintained againſt the Executors or Admini-
ſtrators of ſuch Defendant; and ſuch Court is hereby impow-
ered to try the ſaid Action, and to determine and give Judgment
thereon, in the ſame Manner as if the ſaid Suit had been com-
menced by, or againſt ſuch Executors or Adminiſtrators, as in
Right of their Teſtators or Inteſtates †.

Eng. Stat. 8. & 9.
Will. 3. c. 11.
Sect. 7.
Action may proceed
notwithſtanding
the Death of one
of the Parties.

II. And be it further Enacted by the Authority aforeſaid, That if
there be two or more Plaintiffs or Defendants, and one or more of
them ſhould die, if the Cauſe of ſuch Action ſhall ſurvive to the
ſurviving Plaintiff or Plaintiffs, or againſt the ſurviving Defendant
or Defendants, the Writ or Action ſhall not be thereby abated; but
ſuch Death being ſuggeſted upon the Record, the Action ſhall pro-
ceed at the Suit of the ſurviving Plaintiff or Plaintiffs, againſt the
ſurviving Defendant or Defendants.

† By the Eng. Stat. 8. & 9. Will. 3. c. 11. Sect. 6. Plaintiff muſt proceed by *Scire facias*
& *Writ of Enquiry*. This Clause of the Act reſpects only the Death of Parties between an
interlocutory and final Judgment, which was an Abatement at Common Law. In what Caſes
Death of Parties ſhall abate the Writ or not at Common Law, vide *Cro. El.* 652. *Co.*
Lit. 139. *Cro. Car.* 426. 3. *Mod.* 249. 2. *Str.* 1063. Where the Plea remains in the
ſame Condition as if the Party deceaſed had been living, there, it is a general Rule, that
the Death of ſuch Party makes no Alteration or Abatement of the Writ.

III. And

III. *And be it further Enacted*, That in all Actions Personal and Real, or Mixt, the Death of either Party between the Verdict and the Judgment shall not hereafter be alledged for Error, so as such Judgment be entered within two Terms after such Verdict*.

Eng. Stat. 17. Car. 2. c. 8. Sect. 1.
Death of either Party between Verdict and Judgment.

IV. *And be it further Enacted, by the Authority aforesaid*, That where any Judgment after a Verdict shall be had, by or in the Name of any Executor or Administrator, in such Case an Administrator *de bonis non* may sue forth a *Scire facias*, and take Execution upon such Judgment.

Eng. Stat. 17. Car. 2. c. 8. Sect. 2.
Judgment obtained by an Executor.

V. *And be it further Enacted*, That no Process or Suit before any Justices of Assize, Gaol Delivery, Oyer and Terminer, Justices of Peace or other Commissioners, shall be discontinued by the making and publishing of any new Commission or Association, or by altering the Names of the Justices of Assize, Gaol Delivery, Oyer and Terminer, Justices of Peace or other Commissioners, but such new Justices of Assize, Gaol Delivery, and of the Peace and other Commissioners, may proceed as if the former Commissions, Justices or Commissioners, had remained and continued without Alteration.

Eng. Stat. 1. Ed. 6. c. 7. Sect. 6.
No Suit before Justices shall be discontinued by a new Commission.

* 1. Salk. 8. & 9. 1. Sid. 385.

C A P. II.

An A C T to empower the Province Treasurer to borrow a Sum not exceeding the Sum of *Two Thousand Nine Hundred Pounds*, for paying off Bounties, Premiums, and other Debts, payable by the Laws of this Province.

****HEREAS* the Act made and passed in the present Year of Preamble;

W His Majesty's Reign†, intituled "An Act to empower the Pro-

vince Treasurer to borrow a Sum not exceeding the Sum of

"Four Thousand Pounds, for paying off Bounties, and Pre-

miums, and other Debts payable by the Laws of this Province," has

been found insufficient to answer fully the Purposes thereby intended, as

by a Report from the Treasurer, it appears that there are Debts to a

considerable Amount which remain yet unsatisfied, and therefore not

upon a Footing as to Interest with the other Creditors of the Province;

Be it therefore Enacted, by the Lieutenant Governor, Council, and

Assembly, That the Treasurer of the Province, be and is hereby

empowered and directed to borrow from such Person or Persons

as shall be willing to lend the same, a Sum not exceeding Two

Thousand Nine Hundred Pounds; and the Sum so borrowed shall

be applied in Manner as in this Act is hereafter directed, and for

T t any

† 3. Geo. 3. c. 4

The Province Treasurer to borrow £2900. and give his Receipt for the same.

any Sum or Sums so borrowed, the Treasurer aforesaid shall give his Receipt or Obligation in the Form following,

PROVINCE Nova Scotia, the
176

Day of

Form of the Receipt.

“ RECEIVED of the Sum of for the Use
“ and Service of the Province of Nova Scotia, and in Behalf of
“ said Province, I do hereby promise and oblige myself, and Successors
“ in the Office of Treasurer, to repay the said or order
“ the Day of the aforesaid Sum of
“ with Interest at the Rate of Six Pounds per Centum per Annum.
“ Witness my Hand

Such Receipts to bear Interest at the Rate of 6 per Cent.

II. And be it further Enacted, That all Receipts so issued by the Treasurer of the Province, shall according to the Tenor thereof, bear an Interest at the Rate of Six Pounds per Centum per Annum, and so in Proportion for a greater or a lesser Sum: And the Treasurer is hereby directed to give his Receipt or Receipts for any Sum or Sums (provided the same be not less than Twenty Shillings) at the Option of the Lender, or Person intitled to the same.

Disposition of Money borrowed.

III. And be it also further Enacted, That the Sum so borrowed shall be applied to the Payment and Discharge of the Bounty Certificates and Premiums, and of all other Debts which are or shall become due and payable by the Laws of this Province, and the Expences of the Council, and House of Assembly, which pass by Votes of the respective Houses. Provided, That the Accounts and Vouchers of all such separate Debts, shall be first regularly audited, and certified to be justly due.

Accounts to be audited.

Bounty Bills, &c. to be received as Cash by the Treasurer.

IV. Provided also, That if the Province Treasurer should (by a Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Case, any Person or Persons who shall present Bounty Bills, or Accounts of Money due, or Votes as aforesaid, said Bounty Bills, Accounts or Votes, may be received by the Treasurer, who is hereby directed to give his Receipt or Receipts for the said Sum or Sums, bearing Interest in Manner herein directed.

Interest to be paid annually till the Principal shall be discharged.

V. And provided always and be it further Enacted, That if there should not be Money sufficient in the Treasury, to discharge the several Receipts so issued when the same become payable, that then in such Case the Treasurer is hereby authorized and directed to pay off the Interest, as the same becomes annually due, out of such Monies as may then be in his Hands, arising from the Duties of Impost and Excise.

VI. And

VI. *And Whereas the Act, intituled "An Act to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Four Thousand Pounds, for paying off Bounties, Premiums, and other Debts, payable by the Laws of this Province," has been found insufficient to discharge the whole of the Bounties, and Premiums, and other Debts that were to have been discharged with the Money borrow'd by the said Act, as sundry of the said Bounty, and Premium Certificates, and other Debts are still outstanding: And Whereas it is reasonable that such Certificates or other Debts should bear Interest as they could not then be paid; Be it therefore Enacted, That the Treasurer aforesaid, shall state and allow Interest for all such outstanding Debts, in Manner as prescribed by the said Act.*

Outstanding Debts to bear Interest.

VII. *And be it further Enacted, That all Monies which may be collected by Virtue of the several Laws of this Province, and which are appropriated for the Payment of Bounties, Premiums, and other Accounts of Money due as aforesaid, over and above what will pay the Interest of Money borrow'd by the Government, shall (after discharging the former Loan Creditors) be applied for paying off the Receipts, given by the Treasurer for Monies borrowed, or Bounty and Premium Certificates received in by Virtue of this or the afore recited Act.*

Monies collected for Duties. how to be applied.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *First Day of July, Anno Domini 1761*, in the First Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Twelfth Day of *October 1764*, in the Fourth Year of His said Majesty's Reign; being the Sixth Session of the Third GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for Reformation of Jeofails and Mispleadings, and to prevent Arrests and Reversals of Judgments, and for the better Advancement of Justice.

Eng. Stat. 32. Hen. 8. c. 30. Sect. 1.
After an Issue tried there shall be Judgment given notwithstanding any Mispleading, &c.

E it Enacted by the Governor, Council, and Assembly, That
B if any Issue be tried by the Oath of Twelve or more indifferent Men for the Party Plaintiff or Demandant, or for the Party Tenant or Demandant, in any Courts of Record, the Justice or Justices, by whom Judgment thereof ought to be given, shall proceed and give Judgment in the same, any Mispleading, want of Colour, insufficient Pleading, or *Jeofail*, any Miscontinuance or Discontinuance or Misconveying of Process, misjoining of the Issue, want of Warrant of Attorney for the Party, against whom the same Issue shall happen to be tried; or any other Default or Negligence of any of the Parties, their Counsellors or Attornies, had or made to the contrary notwithstanding; and the said Judgment shall stand according to the said Verdict, without Reversal by Writ of Error or false Judgment (a); *Provided*, that in avoiding of Errors through the Negligence of Attornies, every Person named as Attorney in Actions and Suits pleaded to Issue, shall from Time to Time deliver, or cause to be delivered his or their sufficient and lawful Warrant of Attorney, to be entered of Record, for every of the said Actions or Suits wherein they be named Attornies, to the Clerk of the Court; That is to say, The Attorney for the Plaintiff or Demandant, shall file his Warrant of Attorney as aforesaid, the same Term he declares, and the Attorney for the Defendant or Tenant, shall file his Warrant the same Term he appears; upon Pain of forfeiting unto our Sovereign Lord the KING, the Sum of Five Pounds, for not delivering the said Warrant of Attorney; to be recovered by Action of Debt, Bill, Plaint or Information.

Eng. Stat. 32. Hen. 8. c. 30. Sect. 2.
When an Attorney shall enter his Warrant in Court.

Eng. Stat. 18. Eliz. c. 14. Sect. 1.
After Verdict, Judgment shall not be stayed &c. for want of Form &c.

II. *And be it further Enacted, That after Verdict as aforesaid, the Judgment thereupon shall not be stayed or reversed, for any Defect in Form in any Writ Original or Judicial, Count, Declaration, Bill, Plaint, Suit, or Demand, or any Variance in Form only between the Original or Bill, and the Declaration or Plaint, or for want of any Writ Original or Judicial, or for any imperfect or insufficient Return of any Sheriff or other Officer (b).*

(a) Vide 1. *Danvers's Abridg.* 352. A Collection of Authorities transcribed into 1. *Bac. Abr. C. L.* 91. Settling what Issues, Pleas, &c. are aided or not by this *Eng. Stat. 32. Hen. 8. c. 30.* The only Omission remedied by this *Eng. Stat.* is the Party's Neglect in not filing the Warrant of Attorney.

(b) This *Eng. Stat. 18. Eliz. c. 4.* remedies the Omissions of the prevailing as well as the other Party. Vide 1. *Bac. Ab. C. L.* 92. Construction and Authorities as to Form and Substance of Writs, Declarations, Returns, &c. and how far aided or not by this Statute.

Misprisions not amended by *Eng. Stat. 18. Eliz. c. 14. Sect. 1.* nor by *32. Hen. 8. c. 30.* vide *Arthur Blackamore's Case*, 8. *Co.* 156. *b.* to 163. *a.* Where by Record it appears Plt. had no Cause of Action, not amendable tho' Verdict pass for him, 3. *Co.* 52. *b.*

III. *And*

III. *And be it further Enacted*, That after Verdict, Judgment thereupon shall not be stayed or reversed for want of an Averment of any Life or Lives (c), so as the said Person be proved to be alive, or for awarding the *Venire facias* to a wrong Officer; upon any insufficient Suggestion; or because the *Vifne* (d) is in some Part (e) misawarded or sued out of more or fewer Places than it ought to be, so as some one Place be right named, or for misnaming any of the Jurors in Sirname (f) or Addition in any of the Writs or Returns thereof, so as it be proved to be the same Man that was meant to be returned, or by Reason that there is no Return upon any of the said Writs; so as a Panel of the Names of Jurors be returned and annexed to the said Writ; or for that the Sheriffs or other Officers Name, having the Return thereof, is not set to the Return of any such Writ, so as it be proved that the said Writ was returned by such Officer, or by reason (g) that the Plaintiff in any *Ejectione firmæ*, or in any Personal Action or Suit, being an Infant under the Age of One and Twenty Years, did appear by Attorney therein, and the Verdict passed for him.

Eng. Stat. 21. Jac. 1.
c. 13. Sect. 2.
Divers Jeofails in
Suits of Law pre-
vented and refor-
med.

IV. *And be it further Enacted*, That Judgment shall not be stayed or reversed after Verdict, for want of Pledges, or but one Pledge to prosecute, returned upon the Original Writ, or because the Name of the Sheriff is not returned on the Original Writ, or for want of entering Pledges upon any Bill or Declaration, or for not alledging the bringing into Court any Bond, Bill, Indenture, or other Deed mentioned in the Declaration or other Pleading, or for want of Allegation of bringing into Court any Letters Testamentary, or Letters of Administration, or for Omission of, *by Force and Arms*, and *against the Peace*, or for mistaking the Christian Name or Sirname of the Plaintiff or Defendant, Demandant or Tenant, Sum or Sums of Money, Day, Month or Year, by the Clerk in any Bill, Declaration or Pleading, where the right Name, Sirname, Sum, Day, Month or Year, in any Writ, Plaint, Roll or Record preceding, or in the same Roll or Record, where the Mistake is committed, is or are once truly and rightly alledged, whereunto the Plaintiff might have demurred, and shewn the same for Cause, nor for want of Averment of *This he is ready to verify*, or for *This he is ready to verify by Record*, or for not alledging as it appears by

Eng. Stat. 16. & 17.
Car. 2. c. 8. Sect. 1.

This Act supplies several Defects in 21. Jac. 1. c. 13. and adjudges many Points to be Form which were before construed to be Substance, and not aided by the former Statutes.

In what Cases Judgment, after Verdict, shall not be stayed for want of Form in Pleading.

(c) 1. Sid. 61.

(d) Cro. Car. 17. 162. 284. 480.

(e) This Stat. was framed to help Mistakes in Jury Proccs, but Remedy is given only where the Venue arises from several Places, and one of the Places is truly named. 1. Sid. 20. 2. Lev. 122. & 2. Saund. 258. By this Stat. no Proceedings were aided but those in Jury Proccs, according to the Course of the Common Law.

(f) This extends not to any Mistake in the Christian Name, Cro. Car. 202.

(g) Sty'e, 158. 218.

Record, or for that there is no right Venue, so as the Cause were tried by a Jury of the proper (b) County or (i) Place, where the (k) Action is laid, nor for that the Increase of Costs after a Verdict in an Action, or upon a NonSuit in Replevin, are not entered to be at the Request of the Party for whom the Judgment is given, nor by Reason that the Costs in any Judgment whatsoever, are not entered to be by Consent of the Plaintiff, but that all such Omissions, Variances, Defects and all other (l) Matters of like Nature, not being against the Right of the Matter of the Suit, nor whereby the Issue or Trial are altered, shall be amended by the Justices or other Judges of the Courts where such Judgments are or shall be given, or whereunto the Record is or shall be removed by Writ of Error, or by Appeal in any Action, Real, Personal or Mixt, according to the Usage and Course of Proceedings in this Province.

V. And be it further Enacted, That where any Demurrer shall be joined, and entered in any Action or Suit in any Court of Record within this Province, the Judges shall proceed and give Judgment, according as the very Right of the Cause and Matter in Law shall appear unto them, without regarding any Imperfection, Omission or Defect in any Writ, Return, Complaint, Declaration, or other Pleading, Process or Course of Proceeding whatsoever, except those only which the Party demurring shall specially and particularly set down and express together with his Demurrer as Causes of the same, although such Imperfection, Omission or Defect be Matter of Substance, so as sufficient Matter appear in the said Pleadings, upon which the Court may give Judgment, according to the very Right of the Cause, and therefore no Advantage or Exception shall be taken of, or for an immaterial Traverse, or of or for the Default of entering Pledges upon any Bill or Declaration, or of or for the Default of alledging the bringing into Court any Bond, Bill, Indenture or other Deed whatsoever mentioned in the Declaration or other Pleading, or of or for the Default of alledging the bringing into Court Letters Testamentary or Letters of Administration, or of or for the Omission of *by Force and Arms, and against the Peace*, or either of them; or of or for the want of Averment of *This he is ready to verify*, or of *This he is ready to verify by Record*, or of or for not alledging *as it appears by the Record*, (but the Court shall give Judgment according to the very

(b) This gives no Aid where the Trial is in an improper County. 1. Mod. 37. 199. 2. Mod. 24. 1. Stra. 313. 2. Stra. 1011.

(i) 1. Lev. 207. per *Fawciden*, who termed this Act an Omnipotent Act. This Statute being a new Law, shall not be construed according to the Intent against the Words.

(k) 1. Saund. 247. 248. 1. Vent. 263. 2. Lev. 121. The Stat. did not intend to alter the whole Course of Trials and to try Things in foreign Counties, and must mean that the Issue shall be tried in the proper County where it arises, else it would be impossible by any 1. sea to remove the Trial from the County where the Action is laid. Raym. 131.

(l) 1. Vent. 272.

Right

Erg. Stat. 4. § 5.
Ann. c. 16. Sect. 1.
said to have been
passed by the Lord
Somers.

Judges shall give
Judgment on De-
murrer &c. without
regarding any De-
fect in Writ &c.

Vide Eng. Stat.

27. Eliz. c. 5. Sect. 1.

Right of the Cause as aforesaid, without regarding any such Imperfections, Omissions and Defects, or any other Matter of the like Nature, except the same shall be specially and particularly set down and shewn for Cause of Demurrer.)

Exception.

VI. *And be it further Enacted*, That no Judgment entered upon Confession, *Nihil dicit*, or *Non sum informatus*, in any Court of Record, shall be reversed, nor any Judgment upon any Writ of Inquiry of Damages executed thereon, be staid or reversed for or by Reason of any Imperfection, Omission, Defect, Matter or Thing whatsoever, which by force of this Act would have been aided and cured as *Jeofails*, in case a Verdict of Twelve Men had been given in the said Action or Suit, so as there be an Original Writ or Bill; and Warrants of Attorney duly filed as by this Act is directed.

Eng. Stat. 4. & 5. Ann. c. 16. Sect. 2. Judgment entered upon Confession, &c. not to be reversed for any Imperfection &c.

VII. *And be it further Enacted*, That this Act shall extend in all *Jeofails* as aforesaid to all Suits in any Court of Record, for Recovery of any Debt immediately owing, or any Revenue belonging to His Majesty, His Heirs or Successors.

Eng. Stat. 4. & 5. Ann. c. 16. Sect. 24. Act to extend to all Suits for the King's Debts, &c.

VIII. *Provided always, and be it Enacted by the Authority aforesaid, (m)* That nothing in this Act before contained, shall extend to any Writ, Declaration or Suit of Appeal of Felony or Murder, or to any Indictment or Presentment of Treason, Felony, or Murder, or other Matter, or to any Process upon any of them; or to any Writ, Bill, Action or Information upon any Penal Statute.

Eng. Stat. 13. Eliz. c. 14. Sect. 2. 21. Jac. 1. c. 13. Sect. 3. 16. & 17. Car. 2. c. 8. Sect. 2. 4. & 5. Ann. c. 16. Sect. 7. To what this Act shall not extend.

IX. *And be it further Enacted*, That no Dilatory Plea shall be received in any Court of Record, unless the Party offering such Plea do, by Affidavit, prove the Truth thereof, or shew some probable Matter to the Court to induce them to believe that the Fact of such Dilatory Plea is true (n).

Eng. Stat. 4. & 5. Ann. c. 16. Sect. 11. No Dilatory Plea to be received unless on Affidavit.

(m) Adjudged, that this Exception doth not extend to Cases in which a Remedy is given by way of Recompence to a Party.—No Indictment can be amended where an Amendment is not allowable by Common Law, since the Statutes of Amendment do not extend to Criminal Prosecutions. 2. Hawk. P. C. 244.

(n) Pleas in Abatement, and Foreign Pleas ousting the Jurisdiction of Courts, respect not the Merits of the Cause, and being merely dilatory, were restrained at Common Law, &c. and further by this Statute, requiring an Oath and shewing a probable Cause of the Delay to the Court, and this must be before Impar lance, as in 1. Vent. 180.

C A P. II.

33. Geo. 2. c. 5.

An ACT in further Addition to an Act, made and passed in the Thirty Third Year of His late Majesty's Reign, intituled *An Act for regulating Petit Juries, and declaring the Qualification of Jurors.*

Preamble.

HEREAS the Act made and passed in the Thirty Third Year of His late Majesty's Reign, intituled "*An Act for regulating Petit Juries, and declaring the Qualification of Jurors,*" And also an Act in Addition to the said Act, are confined to the County of Halifax only; and as it is expedient and necessary, that the same should be extended to all the other Counties within this Province; Be it therefore Enacted by the Governor, Council, and Assembly, That the several Clauses, Matters and Things specified in the Act made and passed in the Thirty Third Year of His late Majesty's Reign, intituled "*An Act for regulating Petit Juries, and declaring the Qualification of Jurors;*" and also in An Act made and passed in the same Year, intituled "*An Act in Addition to an Act, intituled An Act for regulating Petit Juries, and declaring the Qualification of Jurors,*" and all the Directions therein contained, shall for the future extend, and be construed to extend to all the other Counties in this Province.

33. Geo. 2. c. 9.
2. Sess.

Former Acts extended throughout the Province.

C A P. III.

An Act to impower the Province Treasurer to issue small Notes for discharging the Loans made in Virtue of an Act made and passed in the First Year of His Majesty's Reign, intituled *An Act for the Relief of the Poor of the Town of Halifax, and indigent Persons in the New Settlements*; and of an Act made and passed in the Second Year of His Majesty's Reign, intituled *An Act to enable the Governor, Lieutenant Governor, or Commander in Chief, to borrow the Sum of Four Thousand Five Hundred Pounds for paying off the publick Debts, and to Postpone the Payment of Bounties and Premiums.*

1. Geo. 3. c. 9.

2. Geo. 3. c. 2.

W
HEREAS

* * * * * *HEREAS it has been represented, that the Persons who now*
possess Warrants for the several Sums of Money borrowed in
Virtue of an Act, made and passed in the First Year of His
Majesty's Reign, intituled "An Act for the Relief of the
Poor of the Town of Halifax, and indigent Persons in the new Settle-
ments;" and of an Act made and passed in the Second Year of His
Majesty's Reign, intituled "An Act to enable the Governor, Lieute-
nant Governor, or Commander in Chief, to borrow the Sum of
Four Thousand Five Hundred Pounds for paying off the public Debts; and
to postpone the Payment of Bounties and Premiums," labour under great
Inconveniencies, on Account of the Largeness of the Sums expressed in those
Warrants: For remedy whereof, Be it Enacted by the Governor, Council,
and Assembly, That the Treasurer of the Province be, and he is
hereby impowered and directed to take up, and receive all such
Warrants for Money borrowed as aforesaid, and in lieu thereof
to give Receipts in Manner as is prescribed by an Act made and
passed in the Fourth Year of His Majesty's Reign, intituled An
Act to impower the Province Treasurer to borrow a Sum not exceeding
the Sum of Two Thousand Nine Hundred Pounds for paying off Bounties,
Premiums, and other Debts payable by the Laws of this Province.

Preamble.

Province Treasurer
to take up War-
rants, and in lieu
thereof to give Re-
ceipts in manner di-
rected by *Prov. Act*
4. Geo. 3. c. 3.

II. *And be it further Enacted, That all Receipts so issued by the*
Treasurer of the Province, shall, according to the Tenor thereof,
bear an Interest at the Rate of Six Pounds per Centum per Annum,
and so in Proportion for a greater or lesser Sum, and the Treasurer
is hereby directed to give his Receipt or Receipts for any Sum or
Sums, provided the same be not less than Twenty Shillings, at
the Option of the Person or Persons possessed of the Warrants
herein mentioned, and to date those Receipts so given, on the Day
following the Day to which the Interest due on such Warrants
was paid.

Such Receipts to
bear Interest at the
Rate of 6 per Cent.

III. *And be it Enacted, That all Warrants brought into the*
Treasury as aforesaid, and for which Receipts shall be given in
Pursuance of this Act, shall be cancelled by such Commissioners
as shall be appointed by the General Assembly.

Warrants to be can-
celled by Commis-
sioners to be ap-
pointed.

IV. *Provided always and be it Enacted, That all Receipts to be*
issued by the Treasurer in Pursuance of this Act, shall be entered
with the Clerk of the Audits, before they are issued from the
Treasury.

Receipts to be en-
tered with the Clerk
of the Audits.

V. *And be it also Enacted, That all Receipts already issued*
by the Treasurer in Pursuance of the former Loan Acts, shall
be entered with the Clerk of the Audits, before any further Inte-
rest is paid thereon.

Receipts already if-
sued to be entered
with the Clerk of
the Audits.

C A P. IV.

An ACT to repeal Part of an Act made and passed in the Third Year of His Majesty's Reign, intituled *An Act to prevent Frauds in the selling of Beef, Pork, Flour, and Biscuit or Ship Bread in Casks.*

3. Geo. 3 c. 3.

Preamble.

***** HEREAS several Inconveniencies and Difficulties have arisen, in carrying into Execution the first Clause of an Act made and passed in the Third Year of His Majesty's Reign, intituled "*An Act to prevent Frauds in the selling of Beef, Pork, Flour, and Biscuit or Ship Bread in Casks,*" whereby it is Enacted, "That all Casks of Beef and Pork, which shall be sold, exposed to Sale, or bartered, or bargained for, in any Way or Manner whatsoever, within this Province, shall contain, if the Produce of America, not less than Two Hundred and Twelve Pounds of neat Meat, and if from Ireland, Two Hundred Pounds of neat Meat;" Be it therefore Enacted by the Governor, Council, and Assembly, That from and after the Publication hereof, the said First Clause in the said Act, intituled *An Act to prevent Frauds in the selling of Beef, Pork, Flour, and Biscuit or Ship Bread in Casks,* and every Part thereof, be and the same is hereby repealed.

Repeal of the first Clause of the Act recited.

II. *Provided always,* That nothing herein contained, shall have any Force or Effect, until His Majesty's Pleasure herein shall be known.

This Act not to be in force till His Majesty's Pleasure be known.

Confirm'd in 1766 by His Majesty in Council.

C A P. V.

An ACT in further Addition to, and Amendment of an Act, intituled *An Act relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures,* made and passed in the Thirty Second Year of His late Majesty's Reign.

32. Geo. 2. c. 21.

Preamble.

***** HEREAS by the Act made and passed in the Thirty Second Year of His late Majesty's Reign, intituled "*An Act relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures,*" no Person or Persons are properly impowred to inspect into the Assize of Bread, and prosecute Offenders against the said Act, except the Clerks of the Market; Be it therefore Enacted by the Governor, Council, and Assembly, That on Complaint being made to any One of His Majesty's Justices of the Peace,

Peace, by any Person or Persons of any Bread being deficient in the Weight, as required and directed in and by the afore recited Act, and upon Proof thereof, or upon the View of any One of His Majesty's Justices of the Peace, it shall and may be lawful for such Justice to order all such Bread, as shall be found deficient in the Weight as aforesaid, to be seized and to be applied and distributed in Manner as by the aforesaid Act is prescribed, and the Person offending herein shall also forfeit and pay the Sum of Twenty Shillings for each and every Offence; to be levied by Warrant of Distress, and for want of sufficient Distress the Offender to be committed to Gaol for a Time not exceeding Ten Days, or until he pay the Fine aforesaid, which Fine shall be applied in the same Manner as the Bread, declared to be forfeited by the said Act, is directed to be applied:

All Bread deficient in Weight to be forfeited, by Order of any one Justice, and distributed as directed by *Prov. Act 32. Geo. 2. c. 21.*

Persons offending forfeit 20s. to be applied in like manner.

C A P. VI.

An A C T to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Fifteen Hundred Pounds, for paying off the Debt incurred by making Roads into the interior Parts of this Province, and for further prolonging an Act made and passed in the Third Year of His Majesty's Reign, intituled *An Act for suppressing unlicensed Houses, and granting to His Majesty a Duty on Persons hereafter to be licensed.*

***** *HEREAS the Duties arising from an Act made and passed in the Third Year of His Majesty's Reign, intituled An Act for suppressing unlicensed Houses, and granting to His Majesty a Duty on Persons hereafter to be licensed, were appropriated for the making Highways, Roads and Bridges, and keeping the same in Repair: And Whereas the aforesaid Fund has been found insufficient to answer the present Demand, for making and repairing Roads into the interior Parts of the Province; Be it therefore Enacted by the Governor, Council, and Assembly, That the Treasurer of the Province be, and he is hereby empowered and directed to borrow, from such Person or Persons as shall be willing to lend the same, a Sum not exceeding the Sum of Fifteen Hundred Pounds, and the Sum so borrowed shall be applied in Manner as in this Act is hereafter directed, and for any Sum or Sums so borrowed, the Treasurer aforesaid shall give his Receipt or Obligation in the Form and Manner as is prescribed by an Act made and passed in the Fourth Year of His Majesty's Reign, intituled An Act to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Two Thousand*

Preamble.

The Treasurer to borrow £1500.

And to give his Receipts for the same.

Thousand

Thousand Nine Hundred Pounds, for paying off Bounties, Premiums, and other Debts, payable by the Laws of this Province.

Such Receipts to
bear Interest at 6
per Cent.

II. *And be it further Enacted,* That all Receipts so issued by the Treasurer of the Province, shall, according to the Tenor thereof, bear an Interest at the Rate of Six Pounds *per Centum per Annum*, and so in Proportion for a greater or lesser Sum, and the Treasurer is hereby directed to give his Receipt or Receipts for any Sum or Sums, *provided* the same be not less than Twenty Shillings, at the Option of the Lender or Person intitled to the same.

Application of the
Money borrowed.

III. *And be it also further Enacted,* That the Sum so borrowed shall be applied to the Payment and Discharge of the Debts, incurred in making Highways, Roads and Bridges into the interior Parts of the Province.

Treasurer may re-
ceive the Governor's
Warrants as Cash.

IV. *Provided also,* That if the Province Treasurer should (by a Scarcity of Money,) not be able to borrow the Sum intended by this Act, that then and in such Case, any Person or Persons who shall produce any Orders or Warrants from the Governor, for the Payment of the Debts incurred as aforesaid, such Orders or Warrants shall be received by the Treasurer, who is hereby directed to give his Receipt or Receipts, for the Sum or Sums therein specified, bearing Interest in Manner herein directed.

Interest to be paid
Annually until the
Principal is dis-
charged.

V. *And provided always, and be it further Enacted,* That if there should not be Money sufficient in the Treasury to discharge the several Receipts so issued, when the same become payable, that then and in such Case, the Treasurer is hereby authorized and directed to pay off the Interest as the same becomes annually due, out of such Monies as may then be in his Hands, arising from the Duties aforesaid.

Receipts to be en-
tered with the Clerk
of the Audits.

VI. *Provided also, and be it Enacted,* That all Receipts to be issued by the Treasurer in Pursuance of this Act, shall be entered with the Clerk of the Audits, before they are issued from the Treasury.

Act for Suppressing
unlicensed Houses,
&c. continued.

VII. *And be it Enacted,* That for the better securing the Payment of the Principal and Interest of the Money so borrowed as aforesaid, that the Act, intituled *An Act for suppressing unlicensed Houses, and granting to His Majesty a Duty on Persons hereafter to be licensed,* and every Clause, Article and Matter therein contained, be and continue in full Force and Effect for the Term of Two Years, from and after the Expiration of the Time limited by the said Act, and until the End of the Session of the *General Assembly* then next following.

C A P. VII.

An ACT to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Two Thousand Five Hundred Pounds, for paying off Bounties, Premiums, and other Debts, payable by the Laws of this Province.

*W*HEREAS there are sundry Bounty Certificates, Premiums, and other Debts, payable by the Laws of this Province, still remaining unpaid; Be it therefore Enacted by the Governor, Council, and Assembly, That the Treasurer of the Province be, and he is hereby empowered and directed to borrow, from such Person or Persons as shall be willing to lend the same, a Sum not exceeding the Sum of Two Thousand Five Hundred Pounds, and the Sum so borrowed shall be applied in Manner as in this Act is hereafter directed; and for any Sum or Sums so borrowed, the Treasurer aforesaid shall give his Receipt or Obligation in the Form prescribed by an Act, intituled *An Act to empower the Province Treasurer to borrow a Sum not exceeding the Sum of Two Thousand Nine Hundred Pounds, for paying off Bounties and Premiums, and other Debts payable by the Laws of this Province.*

II. *And be it further Enacted,* That all Receipts so issued by the Treasurer of the Province shall, according to the Tenor thereof, bear an Interest at the Rate of Six Pounds *per Centum per Annum*, and so in Proportion for a greater or lesser Sum, and the Treasurer is hereby directed to give his Receipt or Receipts for any Sum or Sums; *provided* the same be not less than Ten Shillings, at the Option of the Lender or Person intituled to the same.

III. *And be it also further Enacted,* That the Sum so borrowed shall be applied to the Payment and Discharge of the Bounty Certificates and Premiums, and of such other Debts which are or shall become due, and payable by the Laws of this Province, and the Expences of the Council and House of Assembly, which pass by Votes of the respective Houses. *Provided,* That the Accounts and Vouchers of all such separate Debts shall be first regularly audited and certified to be justly due.

IV. *Provided also,* That if the Province Treasurer should (by a Scarcity of Money) not be able to borrow the Sum intended by this Act, that then and in such Case, any Person or Persons who shall present Bounty Bills or Accounts of Money due, or Votes as aforesaid, said Bounty Bills, Accounts, or Votes may be received by the Treasurer, who is hereby directed to give his Receipt

Y y

OF

Preamble.

The Treasurer to borrow £2,500.

and give his Receipts for the same,

4. Geo. 3. c. 3.
1. Sejs.

Such Receipts to bear Interest at the Rate of 6 per Cent.

Application of the Money borrowed.

Treasurer may receive Bounty Bills &c. as Cash.

or Receipts for the said Sum or Sums, bearing Interest in Manner herein directed.

Interest to be paid
Annually.

V. *And provided always and be it further Enacted*, That if there should not be Money sufficient in the Treasury, to discharge the several Receipts so issued, when the same become payable, that then in such Case, the Treasurer is hereby authorized and directed to pay off the Interest as the same becomes annually due, out of such Monies as may then be in his Hands, arising from the Duties of Impost and Excise.

Treasurer to state
Interest on Bounty
Bills, &c.

VI. *And Whereas the former Acts, empowering the Province Treasurer to borrow Monies to pay off the Bounties, Premiums, and other Debts payable by the Laws of this Province, have been found insufficient to discharge the whole of the Bounties and Premiums, and other Debts, which were to have been discharged with the Money borrowed by the said Acts, as sundry of the said Bounty and Premium Certificates and other Debts are still outstanding: And Whereas it is reasonable that such Certificates or Debts should bear Interest, as they could not then be paid; Be it Enacted*, That the Treasurer aforesaid, shall state and allow Interest for all such Certificates and outstanding Debts, in the Manner as prescribed by the said Acts.

Receipts to be entered
with the Clerk
of the Audits.

VII. *Provided always and be it Enacted*, That all Receipts to be issued by the Treasurer in Virtue of this Act, shall be entered with the Clerk of the Audits, before they are issued from the Treasury.

Application of Monies
collected by
Duties, &c.

VIII. *And be it further Enacted*, That all Monies which may be collected by virtue of the several Laws of this Province, and which are appropriated for the Payment of Bounties, Premiums, and other Accounts of Money due as aforesaid, over and above what will pay the Interest of Money borrowed by the Government, shall, after discharging the Former Loan Creditors, be applied for paying off the Receipts given by the Treasurer for Monies borrowed, or Bounty and Premium Certificates received in by virtue of this or the said former Acts.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth* Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. being the First Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT for the Choice of Town Officers and regulating of Townships.

*** HEREAS the Method of nominating the respective Town Officers herein after mentioned by the Grand Jurors for the several Counties, as directed by the Laws of this Province, is found inconvenient; Be it Enacted by the Governor, Council, and Assembly, That the Grand Juries for the several Counties in this Province, at the Court of *General Sessions of the Peace* for each County respectively, next ensuing the Publication of this Act, and thereafter annually at the First *Sessions* of the said Court, shall nominate out of every Township in the said County, Ten fit Persons, out of whom the said Court shall appoint Five to be Surveyors of Lines and Bounds of each respective Township, who are hereby empowered to survey, examine, and ascertain the Lines and Bounds of their said respective Townships, agreeable to the several Grants thereof, and who shall also be Overseers of the Poor of the said Township; and at the same Time the said Grand Jury shall in like Manner nominate two Persons, one of whom the Court shall appoint to be Town Clerk of the said Town, who shall be sworn truly to enter and record all such Matters and Things, as shall relate to the said Township, and shall appertain to his Office; and shall also nominate Four or more Constables, of whom the Court shall appoint Two or more as they shall see convenient to be Constables in the said Township; and also shall nominate Four Surveyors of Highways, of whom the said Court shall appoint Two to be Surveyors of Highways in the said Township; and also shall nominate Four Fence Viewers, of whom the said Court shall appoint Two to be

Preamble.

Grand Jury at the first General Quarter Sessions Annually to nominate, and the Court to appoint,

Surveyors of Lines and Bounds, and Overseers of the Poor,

Town Clerk,

Constables,

Surveyors of Highways,

Fence

Fence Viewers,
Clerk of the Mar-
ket,

Pound Keepers,

Cullers and Survey-
ors of Fish,

Surveyors of Lum-
ber,

Sealers of Leather,

Gaugers of Casks,

Hogreaves,

Persons refusing to
accept, or being
guilty of Neglect or
Misbehaviour, to
forfeit 40s. for the
use of the Poor,

In Case of Absence,
&c. others to be ap-
pointed by two
Justices.

Not to extend to
any Towns that
may be hereafter in-
corporated.

Boundary Line, to
be run and Marks
to be renewed once
in three Years.

Fence Viewers in the said Township; and also shall nominate Two Clerks of the Market, of whom the said Court shall appoint One to be Clerk of the Market in said Township; and shall also nominate Four Pound Keepers, of whom the said Court shall appoint a sufficient Number in their Discretion to be Pound Keepers in the said Township; and shall also nominate Four or more Cullers and Surveyors of Fish, of whom the said Court shall appoint a sufficient number in their Discretion to be Cullers and Surveyors of Fish in the said Township: and shall also nominate Four Surveyors of Lumber and Cord Wood, of whom the said Court shall appoint two to be Surveyors of Lumber and Cord Wood in the said Township; and shall also nominate Two Sealers of Leather, of whom the said Court shall appoint one to be Sealer of Leather in the said Township; and shall also nominate Four Gaugers of Casks, of whom the said Court shall appoint Two to be Gaugers of Casks in the said Township; and shall also nominate Four Hogreaves, of whom the said Court shall appoint Two to be Hogreaves in the said Township; who shall respectively be sworn to the faithful Discharge of their Duty in Manner as is already prescribed by the Laws of this Province, and shall in every respect conform to the said Laws, and upon their, or any of their Refusal to accept, or being guilty of any Neglect, or Misbehaviour in the Execution of the Duty of their respective offices, they shall forfeit and pay for the Use of the Poor of the said Township, the Sum of Forty Shillings for every such Refusal, Neglect, or Misbehaviour; to be recovered upon Proof of such Refusal, Neglect or Misbehaviour, by the Oath of one Credible Witness, before any Two of His Majesty's Justices of the Peace for the County wherein such Township lies, to be levied by Warrant of Distress and Sale of the Offender's Goods and Chattels, any Law, Usage, or Custom to the contrary notwithstanding: And if any Person so nominated and chosen, shall leave the Province, change the Town of his Residence, or happen to die within the Period, for which he was nominated and appointed to serve in any of the said Offices, in such Case any Two of his Majesty's Justices of the Peace for the County, shall and may nominate and appoint a fit Person or Persons, to serve in such vacant Office, until another shall be nominated by the Grand Jury, and appointed by the said Court of General Sessions, at their Meeting next ensuing such Vacancy.

II. *Provided always*, That nothing in this Act contained shall extend, or be construed to extend to restrain any Privileges that may hereafter be granted, by any Charter of Incorporation, to any Town or Towns within this Province.

III. *And for the better regulating the several Townships in this Province; Be it Enacted*, That the original Boundary Lines of each and every Township or District within this Province, shall be run betwixt

betwixt Township and Township, and Marks renewed once in Three Years, *viz.* on the First Monday in March; by the Surveyors of Lines and Bounds appointed for the respective Townships, as directed by this Act; or the major Part of them, and the Persons so appointed for each respective Township are hereby empowered and directed to give Six Days Notice to the Persons appointed for the adjacent Townships, of the Time and Place of Meeting for such Survey, and any Person or Persons appointed as aforesaid, refusing or neglecting to attend at the Place mentioned in such Notice, being duly served therewith, shall forfeit and pay the Sum of Forty Shillings each, to be recovered on Complaint before any Two of his Majesty's Justices for the County where such Complaint shall be made, and one Half of the Forfeiture shall be paid to the Person or Persons who shall complain and prosecute for the same, and the other Half to the Overseers of the Poor, for the Use of the Poor of such Towns from whence the Complaint was made; and whenever the Surveyors of any Township, which shall have had Notice as aforesaid, shall refuse or neglect to attend the said Business, the Surveyors who shall have given such Notice shall, and they are hereby empowered to proceed in running and making such Line, which shall be as effectual as if the Surveyors of both Townships had joined.

On Six Days Notice, Surveyors

neglecting to attend, forfeit 40s.

IV. *And be it further Enacted,* That each and every Proprietor of Lands laying unfenced, or in any Common Field, shall once in Two Years on Six Days Notice given him, his Agent, or Attorney, by the next Proprietor or Proprietors adjoining, run the Lines, make and keep up the Boundaries of such Lands or Common Field, by Stones or other sufficient Marks, and every Party so neglecting or refusing, shall forfeit the Sum of Twenty Shillings, one Half of which shall be to the Party complaining, and the other Half to the Overseers of the Poor for the Use of the Poor of said Township; and to be heard and determined before any One of his Majesty's Justices of the Peace within the same County; and the Proprietors of any Field held in Common, whether divided or undivided, shall, and they are hereby empowered to, order, improve and fence, in such Way or Manner as shall be concluded and agreed upon by the major Part of the interested therein; the Voices to be collected and accounted according to their respective Interests; and if any Person shall refuse to make, keep up, support, and maintain his *quota* Part or Proportion of such Fence so agreed on to be made, and shall on Notice given him for that Purpose by any one of the Proprietors concerned with him in the said Common Field, neglect the same for the Space of Thirty Days, the Fence Viewer shall, on Application being made to him, make and set up the deficient Fence, or repair any Fence already made, if in his Judgment the same is insufficient, and the Person or Persons, that of Right ought to build and maintain the same, shall pay double the Costs and

Proprietors of Lands unfenced,

or Common Fields once in Two Years.

on Six Days Notice, to run the Lines and keep up the Boundaries, or forfeit 20s

Common Fields to be ordered, improved and fenced, as shall be agreed on by the major Part of the Proprietors.

Persons refusing to fence their Proportion, to pay double the Cost for the same, to be done by the Fence Viewer.

Charges expended for the doing thereof, and in Case of Refusal such Fence Viewer may recover the same before the *Inferior Court of Common Pleas* or before One or Two Justices according to the Value thereof; and the said Fence Viewer, shall be allowed Three Shillings *per Day* for his own Trouble, and Time expended therein.

Persons neglecting to comply with Regulations made by Proprietors of Common Fields, forfeit 10s.

V. And if any Person or Persons shall neglect or refuse to comply with any Regulation made by the Proprietors of any Common Field as aforesaid, which Regulation shall be made annually, he or they shall forfeit and pay the Sum of Ten Shillings, for the Use of the Poor of the Town where such Common Field shall lie; to be recovered by the Oath of One credible Witness before any One of his Majesty's Justices of the Peace for the County wherein such Lands are, to be levied by Distress and Sale of the Offender's Goods and Chattels, and shall moreover make Satisfaction for all Damages that may have arisen by such Neglect or Refusal.

VI. *And Whereas many Inconveniencies have arisen for want of Cattle being branded or otherways marked, that run in Common, Be it Enacted, That all and every Owner of any Horse or Horses, Neat Cattle, Sheep or Swine, shall brand or otherways mark such Horse or Horses, Neat Cattle, Sheep or Swine, in such Manner as that the same may be clearly known; and shall enter such Mark or Brand with the Town Clerk, in a Book to be kept by him for that Purpose, and the said Town Clerk shall receive for Recording the said Mark or Brand the Sum of Six Pence.*

Cattle to be branded.

C A P. II.

An ACT in Addition to and Amendment of an Act, made and passed in the First Year of His Majesty's Reign, intituled *An Act for repairing and mending Highways, Roads, Bridges, and Streets, and for appointing Surveyors of Highways, within the several Townships in this Province.*

*** E it Enacted by the Governor, Council, and Assembly, That
 B where a new Highway or Common Road from Town to Town, or Place to Place in any County in this Province, shall be wanting, and where old Ways with more Convenience may be turned or altered; upon Application made to the Justices in *General Sessions* within the same County, the Court is hereby empowered to appoint two or three sufficient Freeholders of the next Towns, who shall have most Occasion of the said Way,

New Highways or Common Roads, to be laid out by a Jury, sworn at the *General Sessions* for that Purpose.

to enquire into the Necessity and Conveniency thereof, and to make their Report thereon, and being judged to be of common Necessity or Conveniency, the Justices shall order a Warrant to the Provost Marshal or his Deputy to summon a Jury out of the next Towns, to meet at some convenient Day and Place therein mentioned, to view and lay out such Highways or Roads, who shall have an Oath administered to them by a Justice of the Peace, to lay out such Way according to their best Skill and Judgment, with most Conveniency to the Public, and least Prejudice or Damage to any particular Person; which having done, the Provost Marshal or his Deputy is to make a Return thereof on the Day appointed by the Court, as well under his own, as the Hands of the Jurors, by whose Oath the same is laid out, to the End the same may be allowed of and recorded, and after known for a Public Highway; and all Public Highways hereafter to be laid out as aforesaid, shall not be less than One Hundred Feet wide.

Highways not to be less than 100 Feet wide.

II. *Provided always, and be it Enacted*, That before such Road or Highway is allowed and recorded for a Public Highway, the Court shall cause Notice to be given thereof for the Space of Thirty Days, to the Intent that if any Person shall think himself aggrieved thereby, he may make his Complaint thereof, and Inquiry be made into the Cause of such Complaint.

30 Days Notice to be given, that any Person aggrieved, may complain.

III. *And be it further Enacted*, That the Surveyors of the Highways of each Town respectively, be and are hereby impowered to lay out particular and private Ways, either open or pent, with Swinging Gates for such Town only, as shall be thought necessary by the Justices of the Peace in their *General Sessions*, upon Application made to them by the Persons concerned: *Provided*, that no Damage be done to any particular Person in his Land or Property, without due Recompence to be made by the Town, as the Surveyors of the Highways and the Party interested may agree, or as shall be ordered by the Justices in *General Sessions*, upon Inquiry into the same by a Jury to be summoned for that Purpose.

Private Roads to be laid out by the Surveyors of Highways.

Not to endamage any particular Person without due Recompence.

IV. *And be it also further Enacted*, That if any Person or Persons shall alter any Public Road or Highway, or any private Road that shall be laid out as aforesaid, or that shall make any Encroachment upon the same, not being first authorized so to do by due Course of Law; such Persons shall, upon Complaint and due Proof thereof made before the Court of *General Sessions* of the Peace for the County, where such Highway lay before it was so altered or encroached upon, forfeit Five Pounds, to be levied by Distress and Sale of the Offender's Goods and Chattels, by Warrant of the Court who shall hear the said Complaint; and all Forfeitures so to be levied shall be paid to the Surveyors of the Highway of the Township, from whence the Fine was levied, to be applied for repairing Highways, Roads, Streets and Bridges, within the same.

Any Person altering or encroaching on any Road,

forfeits £5.

to be applied to the repairing Highways, &c.

V. *And*

V. *And Whereas in and by the Act made and passed by the General Assembly of this Province, in the First Year of His Majesty's Reign intituled "An Act for repairing and mending Highways, Road Bridges and Streets, and for appointing Surveyors of Highway within the several Townships in this Province," it is among other Things Enacted, "That the Constables of the several Townships in this Province shall in Writing making an equal Division, set out to the Surveyors of Highways the several Roads, Highways and Streets, on which each of them shall respectively labour, and deliver also a List signed by them of such Persons, as shall live within the District wherein such Highways, Roads, or Streets are allotted to each of them, to be employed by them respectively, and who accordingly shall be reputed to be the Persons obliged by the said Act to labour." And Whereas it is thought most proper, that the Surveyors of the Highways, should themselves set out the several Roads, Highways and Streets, which require Repair; Be it therefore Enacted, That the Constables of the several Townships in this Province shall make out a List of all such Persons who are Owners of Teams, Carts or Trucks, as also of every other Householder and Labourer within their respective Townships, and deliver the same to the Surveyors of Highways; and at such Time as the said Surveyors shall judge proper, between the Days prescribed by the afore recited Act, the said Constables shall summon so many of the Persons contained in said Lists, as the Surveyors shall direct from Time to Time.*

Constables to return to the Surveyors, a List of the Owners of Teams, &c. and of Persons liable to labour.

Persons between the Age of Sixteen and Sixty obliged to labour on the Roads, or pay a proper Person.

VI. *And be it also Enacted, That all Persons able of Body between the Age of Sixteen Years and Sixty shall be obliged to labour at the said Roads, Highways, Streets and Bridges, or procure or pay a proper Person for the same.*

C A P. III.

An ACT for empowering the Justices of the Peace for the County of *Halifax*, to hold a Court of *Special Sessions of the Peace* at *Windsor* in said County, for the Townships of *Windsor*, *Onslow* and *Truro*.

Preamble.

***** *HEREAS the great Extent of the County of Halifax, and the Distance between the Town of Halifax and the Townships of Windsor, Onslow, and Truro, makes the Attendance of Persons resident in those Townships, at the General Sessions of the Peace, held for the said County at Halifax, very inconvenient; Be it Enacted by the Governor, Council, and Assembly, That there shall be held and kept within the Township of Windsor, in the*
COURTY

County of *Halifax*, in every Year, on the last Tuesday of June, and the Second Tuesday of October, a *Special Court of General Sessions of the Peace*, and any Three or more Justices for the County of *Halifax*, One whereof to be of the Quorum, shall and may hold the said Court, and such Court shall have, hold, use, exercise and enjoy all and singular the Powers, which are by Law already given and granted unto *Courts of General Sessions of the Peace*, so far as relates to all such Matters and Things arisen, or which shall arise within the said Townships of *Windsor, Onslow, and Truro*.

Special Sessions to be held at *Windsor*, on the last Tuesday of June and the second Tuesday of October annually, for the Townships of *Windsor, Onslow, and Truro*.

C A P. IV.

An Act in further Addition to and Amendment of an Act made and passed in the Thirty Fourth Year of his late Majesty's Reign, intituled *An Act for the appointing Commissioners of Sewers*.

HEREAS in the last Clause of an Act made and passed by the General Assembly of this Province, in the Third Year of His Majesty's Reign, intituled "An Act in Addition to, and Amendment of an Act for the appointing Commissioners of Sewers," It is Enacted, "That if any Proprietor or Proprietors of the Lands dyked in or drained, are absent, and no Person appearing in their Behalf, and have not any Goods or Chattels to answer his, her, or their Dividend or Proportion of such Assessment made as aforesaid, it shall and may be lawful for any One of His Majesty's Justices of the Peace for the County, where such Lands lie, to let out any Part of such Delinquent's Lands, that may be sufficient to pay, by the Produce of the same, any such Dividend or Proportion of the Sum so due." But no Provision is made to collect from any Proprietor or Proprietors, being present and not having any Goods or Chattels to answer his, her, or their Dividend or Proportion of any Assessment, made in Virtue of the before mentioned Act; Be it Enacted by the Governor, Council, and Assembly, That any Proprietor or Proprietors of any Lands dyked in, or drained, as directed in and by the before mentioned Act, being present and not having any Goods or Chattels, to answer his, her, or their Dividend or Proportion of any Assessment made by Commissioners of Sewers according to Law, it shall and may be lawful for any One of his Majesty's Justices of the Peace for the County where such Lands lie, to let out any Part of such Delinquent's Lands, that may be sufficient to pay by the Produce of the same, any such Dividend or Proportion of the Sum so due.

Preamble.

3. Geo. 3. c. 11.

Delinquent Proprietor's Lands, to be let out by one Justice to pay their proportion for Dyking &c.

Appeal to the General Sess. s.

II. *Provided always*, That if any Proprietor or Proprietors of Lands, let out as aforesaid, shall think himself or herself aggrieved by the Proceedings of any Justices of the Peace, in letting out his, her or their Lands as aforesaid, such Proprietor or Proprietors, by themselves or their Attornies or Agents, may complain to the Justices in their *General Sessions of the Peace* for said County, for Relief therein.

C A P. V.

An ACT to enable the Inhabitants in the several Townships in this Province, (*Halifax* excepted) to cause any absent Proprietor of Lands within the same to pay a Dividend or Proportion of any County or Town Charge to be assessed according to Law, and to bear their just Proportion in repairing *Highways, Roads, and Bridges* within the said Townships respectively.

Preamble.

*** *HEREAS* there are many Non resident Proprietors of Lands within this Province, whose Lands are enhanced in their Value by the Labour of those who are present, and the Burthen of the necessary County and Town Charges being heavy on the resident Proprietors; Be it Enacted by the Governor, Council, and Assembly, That each and every Non resident Proprietor or Proprietors of Lands in any Township within this Province, (the Township of *Halifax* excepted) shall pay or cause to be paid, his, her, or their just Dividend or Proportion of all County and Town Charges hereafter to be assessed in such County and Township, and upon failure thereof the same to be recovered as directed by the Laws empowering such Assessment, and each and every Non resident Proprietor or Proprietors of Lands in any Township, shall be obliged to do and perform his, her, or their Parts or Proportion of Labour on the Highways, Roads, and Bridges, within their respective Townships, or pay for the same as delinquent Inhabitants are by Law directed.

Non resident Proprietors to pay their Proportion of all County and Town Charges,

and for Labour on the Highways,

on failure, one Justice may let out such Delinquent's Lands for Payment thereof.

II. *And be it also Enacted*, That if any Proprietor or Proprietors of Lands in any Townships as aforesaid shall be absent, and no Person appearing in their Behalf, on public Notice being given in the *Halifax Gazette*, to pay his, her, or their Dividend or Proportion of any Assessment made in virtue of any Law of this Province, and to labour on the Highways, Roads and Bridges as aforesaid, and not having any Goods and Chattels to answer his, her, or their

Dividend

Dividend or Proportion of any Charge made as aforesaid, it shall and may be lawful for any One of his Majesty's Justices of the Peace, who are hereby impowered, to let out any Part of such Delinquent's Lands, as may be sufficient to pay by the Produce of the same, any such Dividend, Proportion or Charge so due; and in Case the Lands of such Absentee, should not for the present, produce sufficient to pay the Quota of his, her, or their Proportion of such Assessment, that then the Lands of such Delinquent shall be held chargeable therewith.

III. *Provided always*, That if any Proprietor or Proprietors of Lands, let out and held as aforesaid, shall think himself or herself aggrieved, by the Proceedings of any Justice of the Peace, in letting out his, her or their Lands as aforesaid, such Proprietor or Proprietors, by themselves or their Attornies, may complain to the Justices in their *General Sessions of the Peace* for said County, for Relief therein.

Appeal to the *General Sessions*.

C A P. VI.

An Act for the raising Money by Presentment on the several Counties in this Province, for the defraying certain County Charges therein mentioned.

***** *E it Enacted, by the Governor, Council, and Assembly*, That
 * B * from and after the Publication hereof, it shall and may be
 * * * * * lawful for the several Grand Juries in each of the several
 * * * * * Counties in this Province, either at the Court of *Assize*, or
General Sessions of the Peace held for such County, to present annually a proper and fit Person, one of the Freeholders of said County, to be a Treasurer for said County for the Year ensuing, and such Person being approved of by the Court, shall be sworn to the due Execution of his Office, and Invested with all the Powers and Trusts, as herein after directed.

Eng. Stat. 43. Eliz. c. 3.

Grand Juries at the Court of *Assize* or *General Sessions of the Peace*, to present annually a proper Person to be County Treasurer, to be approved and sworn by the Court.

II. *And be it further Enacted*, That it shall and may be lawful for the several Grand Juries in each of the several Counties within this Province, either at the Court of *Assize* or *General Sessions of the Peace* held for such County, to make Presentment, upon proper Representations made thereon by three or more Freeholders of the said County, or of their own Knowledge, of all such Sum and Sums of Money or Expences that may be found to have arisen, or that may be absolutely necessary to be raised for the building or repairing a County Gaol, or for the building or repairing a Court or Session House, erecting Stocks, Pillories, or Pounds, and providing

Eng. Stat. 11 & 12. Will. 3. c. 19. Sect. 1. directs Rates for Repair of Gaols.

Grand Juries to present what Sums are necessary to be raised for building & repairing a Gaol &c.

† Eng. Stat. 3 Jac. 1.
c. 10. Sec. 1.

ding Bolts and Shackles, as also for the conveying † of Persons accused of any Treason or Felony, to the County Gaol, being Three Miles distance or upwards, so as the same do not exceed Six Pence per Mile; as likewise for the support of poor Criminals in Gaol.

Monies to be paid
into the Treasurer's
Hands, &c.

III. *And be it also further Enacted*, That all Money so raised by Presentment as aforesaid, and levied from off the Inhabitants of the several Counties; shall be paid into the Hands of the County Treasurer, and shall not be applied to any other Use than such for which the same was raised; and if any Person or Persons who shall be appointed in the said Presentment and Order thereon, to be the Director or Directors, Overseer or Overseers of the Work, or the Distributor or Distributors of the Money hereby raised, for which such Presentment was made, shall not at the next *General Assizes* or *General Sessions* of the County, or in a reasonable Time to be by them appointed, make appear in his or their Account or Accounts, with good Vouchers, that the Money so raised and received by him or them, shall have been expended pursuant to said Presentment to the Use of the County, he or they shall still be chargeable with the same; and every Person so accountable for any Public Money shall, when required by the Justices at their *General Sessions* or by the *Judges of Assize* at their *General Gaol Delivery*, make up their Accounts on Oath, and if such Accountants shall neglect to make a fair and just Account of all such Public Money or shall upon such Accounts be found to have such Money or any Part thereof remaining in his or their Hands, such Accountants shall forthwith pay such Money into the Hands of such Persons, as shall by such Grand Jury and Justices of the Peace or Judges of *Assize*, be presented and ordered for the Use of such County where such Public Money shall be raised; and in Default thereof such Person or Persons so accountable, shall by the Justices at their said Sessions or Judges of *Assize* at their respective *Assizes* be committed to the Common Gaol, in Execution, until such Accounts shall be made and Balance paid, or sufficient Sureties given for the same.

For the Use of the
County.

No Presentment to
be confirmed till
the last Day of the
Court's Sitting.

IV. *Provided always, and be it Enacted*, That no Presentment for the raising Money as aforesaid, shall be confirmed by the Judges of *Assize* or the Justices in *General Sessions*, until the last Day of the Sitting of the said Court of *Assize* or *General Sessions of the Peace*, and such Presentment so made shall be posted up in the Court House from the Time of its being made till the same is confirmed, to the End that all Persons concerned may have Notice thereof, and object against and traverse the same, if they see convenient.

Ten Pounds per Ann.
to be allowed to the
Treasurer for his
Services.

V. *And be it further Enacted*, That it shall be lawful for the several Grand Juries in each County in this Province, at the *Assizes* and at the *General Sessions of the Peace* to make Presentment if they think fit, and for the Judges and Justices to confirm the same, for the raising any Sum not exceeding Ten Pounds per Annum, to be

be paid to the Treasurer of each County for his Services in that Station; and also that it shall and may be lawful for said Grand Juries to present Three or more good and sufficient Freeholders for every Township in said County, to be Assessors for said Township, who are to be approved of by the Court, and are to be sworn by the said Court, or before any One of His Majesty's Justices of the Peace, to the due and faithful Execution of the Office to which they are appointed, and that without Favour or Affection, Hatred or Malice, to the best of their Skill and Knowledge; and in Case any Person, who may be appointed as Assessor as aforesaid, and shall refuse to accept the said Office, another Person shall immediately be appointed in his stead by the Court, or by any Two of His Majesty's Justices of the Peace, and the Person so refusing shall forfeit the Sum of Forty Shillings, to be recovered by Bill, Plaint, or Information in any of His Majesty's Courts of Record, or before any Two of His Majesty's Justices, and be paid to the Treasurer of the County, for the Use of the County wherein such Assessor was appointed.

Ten Pounds *per Ann.* to be allowed to the Treasurer for his Services.

Three Assessors to be appointed by the Grand Jury and sworn.

Persons refusing to accept, forfeit 40s. and another to be appointed.

VI. *And be it also further Enacted,* That the Judges of *Affize* or Justices in *General Sessions* for each County, shall agree and determine each respective Town's Proportion of the Sum so presented and confirmed by the Court; and the Sum so proportioned, shall be assessed on the Inhabitants in each Township, in the justest and most equal Manner they can devise, and the same shall be levied by the Constables of the said Townships respectively, by Warrant under the Hand and Seal of any Two of His Majesty's Justices of the Peace for the said County, and in Case of Refusal, by Distress and Sale of the Goods and Chattels of the Person refusing or neglecting to pay the Sums assessed on them as aforesaid, with the Charge of such Distress and Sale, returning the Overplus if any; and in Case any Person or Persons shall think themselves aggrieved by such Assessment or Levying thereof, they shall be at Liberty to appeal to the next *General Sessions* held for the County, who are finally to determine the same; and the Money, when so levied, shall be paid into the Hands of the County Treasurer, who is to pay the same to the Persons, as directed in the Presentment.

Judges of *Affize* or Justices of *Sessions*, to determine each Town's Proportion.

To be levied by Warrant from Two Justices.

Persons aggrieved may appeal to the next *Sessions*.

VII. *And be it Enacted,* That the Treasurer in each County shall make up his Accounts upon Oath of all his Receipts and Payments, at every Court of *Affize* or *General Sessions* held for said County, to be approved or disapproved by said Courts, and the same shall be filed in the Office of the Clerk of the Peace for said County; and no Treasurer or other Person or Persons concerned, is to compound for any Money to be raised on said County, nor make any Deduction whatsoever for any Sum he or they shall pay to any Person or Persons, but such as he or they shall account for by proper Vouchers; and if any Treasurer shall offend herein, or neglect to make up his Account as aforesaid, he shall for ever be incapable to serve as Treasurer again, and be committed to Gaol

Treasurer to make up his Accounts at every Court of *Affize* or *General Sessions*.

without Bail or Main Prize, until he fairly accounts with the Court of *Affize* or *General Sessions of the Peace* held for such Town or County, and from the said Court to receive a Certificate of his having passed his Accounts to their Approbation.

C A P VII.

An ACT for regulating Servants.

Preamble.

Vide Statute enacted in Ireland, 2. Geo. 2. c. 17 Sect. 3, 4, 5, & 7. to the same Effect, with the 1st. & 2d. Sections of this Act.

Servants hired for any Term not less than Six Months, to have a Certificate from their Master or Mistress, when discharged;

Any Person harbouring or entertaining any Servant without such Certificate, to forfeit £10.

If any Master refuse to give his Certificate to his Servant upon his Discharge, he may apply to a Justice of the Peace, who shall inquire into the Circumstances.

****HEREAS* great Damage and Inconveniencies have arisen, and daily do arise by Apprentices and bound and hired Servants, deserting and leaving their Service without a legal Discharge; For Prevention whereof, Be it Enacted by the Governor, Council, and Assembly That from and after the Publication hereof, all Servants bound by Indenture, or hired Servants for any Time not less than Six Months, at the Expiration of the Term for which they were bound or hired to serve, shall have from their Master or Mistress a Certificate or Discharge of such Servants having served his or her Time, which shall be a sufficient Warrant for any Person to entertain or take such Servant into his or her Service, and the Person hiring such Servant shall take his or her Certificate or Discharge, and keep it until the Time, then contracted for, be expired; and if any Person shall knowingly take into his or her Service, or knowingly harbour or entertain, any Person who has been in any former Service, without such Certificate or Discharge, such Person being thereof convicted at the *General Sessions of the Peace*, held for the County or Place where such Offence shall be committed, shall forfeit Ten Pounds; to be levied by Distress and Sale of the Offender's Goods and Chattels, by Warrant from such *General Sessions*; one Moiety of which Forfeiture shall be to the Poor of the Township where the Offender resides, and the other Moiety to the Informer who shall discover and prosecute the same.

II. *Provided always*, That in Case any Person shall refuse to give his or her Servant a Certificate or Discharge as aforesaid, such Servant may apply to some neighbouring Justice of the Peace of the County wherein such Master or Mistress inhabits, who shall give Notice to the Master or Mistress of such Servant, and require from them respectively the Reason why such Servant is refused such Discharge and Certificate of his or her Service; and in Case no regard be paid to such Notice, within Five Days, or that the Justice shall sooner, by a Reply to such Notice, find that the Cause of the Refusal of such Discharge or Certificate was not sufficient, the said Justice is required to give a Certificate thereof, or of such Reasons as the Master or Mistress gave for refusing such Discharge or Certificate, that such Person who is about to hire such Servant, may

may be apprized of such Servant's Behaviour, and judge thereof before he or she hires such Servant, for which Certificate no Fee shall be paid; and the said Certificate shall be as good as if the same had been given by such Master or Mistress; and any Servant who shall be convicted of counterfeiting or producing a counterfeited Certificate, under the Hand of any Master or Mistress, or Justice of the Peace, by the Oath of One or more Witnesses, or by such Servant's own Confession, before Two of His Majesty's Justices of the Peace, shall be publickly whipped at the Discretion of such Justices.

Any Servant counterfeiting any Certificate, to be publickly Whipt.

III. *And be it further Enacted,* That all bound or hired Servants as aforesaid, who shall desert or absent themselves from their Master or Mistress's Service, shall be liable to make Satisfaction by Service, after the Time by Indenture or Agreement is expired, double their Time of Service so neglected, and if the Time of their Desertion or Absence was at Seed Time or Harvest, or during the Fishing Season, and the Charge of recovering them extraordinary, the Court of *General Sessions of the Peace*, before whom the Complaint shall be made, shall adjudge a longer Time of Service proportionable to the Damage the Master shall make appear he hath sustained.

Servants who shall desert or abscond, to make Satisfaction by serving double the Time, on the Order of the Sessions.

IV. *And Whereas the adjudging the Time such bound or hired Servant should serve, is often referred until the Time by Indenture or Agreement is expired, when the Measure of such further Service may be rendered difficult to ascertain;* *Be it Enacted,* That the Master or Mistress of any Servant so deserting or absenting themselves, that intends to take the Benefit of this Act, shall so soon as he or she hath recovered such Servant, carry him or her to some One of His Majesty's Justices of the Peace, and there declare and prove the Time of his or her Absence, and the Charge he hath been at in his or her Recovery, which Justice thereupon shall grant his Certificate thereof, and the Court shall and may, on such Certificate, pass Judgment for the Time such Servants, so deserting or absenting themselves, shall serve for his or her Absence.

Complaint to be first made to a Justice of the Peace.

V. *And be it also Enacted,* That every Master or Mistress shall provide for his or her Servant according to the Tenor of their Agreement, and any bound or hired Servant as aforesaid, having just Cause of Complaint against his or her Master or Mistress for cruel and bad Usage, may and shall, on Application to Two of His Majesty's Justices of the Peace, be heard concerning the same; *Provided* such Complaint be made within a reasonable Time, not exceeding Ten Days after the Cause given, unless such Servant is prevented by his or her Master or Mistress or by Sicknes; and if the said Justices shall find by sufficient Proof, that the said Servant's Cause of Complaint is well founded, the said Justices are hereby required to make an Order for the Relief of such Servant by discharging

Complaints of Servants for cruel and bad Usage, to be heard and determined by Two Justices.

charging him or her from their Service, or otherwise as they may see fit, and if either Party shall not be satisfied with the Order of the said Two Justices, they may appeal to the next Court of *General Sessions of the Peace*, where the Matter shall be finally determined.

Appeal to the Sessions.

VI. *And be it also further Enacted*, That no Master of any private Ship or Vessel of War, or Master of any Merchant Ship or Vessel, coming into, tarrying or abiding in, or going forth from any Port, Harbour, or Place within this Province, shall receive, harbour, entertain, conceal or secure on board such Ship or Vessel, or suffer to be there harboured or detained, any bound or hired Servant as aforesaid, knowing them to be such, without Licence or Consent of his or her Master or Mistress in Writing, under his or her Hand, first had and obtained, on Pain of forfeiting Ten Pounds for every such Offence; which Forfeiture shall be applied and disposed of, as is directed in and by the first Clause of this Act, and shall be recovered by Bill, Complaint, or Information in any of His Majesty's Courts of Record in this Province.

Masters of Vessels not to harbour, &c. any bound or hired Servant,

on Penalty of £10.

VII. *And Whereas it often happens, that indented Apprentices or Servants are contracted with in Great Britain, Ireland, or other of His Majesty's Dominions, and imported into this Province, and there assigned over to the Inhabitants thereof, without the previous Knowledge or Consent of such Apprentice or Servant; Be it therefore Enacted*, That before any Inhabitant shall accept of the Assignment of any such Indenture, he shall, with the Parties, go before some One or more of His Majesty's Justices of the Peace, who shall examine whether the Indenture proposed to be assigned, be made and executed agreeable to Law, and whether the Apprentice or Servant has any legal Objection to the Assignment thereof, and to determine the Validity of such Objections; a Certificate of which Judgment shall be recorded by said Justice or Justices†.

Indentures of Servants hired in Great Britain, &c. to be examined by a Justice before they are assigned.

VIII. *And be it further Enacted*, That if any Servant shall engage and contract himself with any Person or Persons, carrying on the Fishery, in the Capacity of a Salter, Splitter, or Shoreman, and shall upon Trial be found incapable, and unqualified to discharge the Duty of the Station, for which he shall have contracted himself, such Servant, upon due Proof of his Incapacity before any One of His Majesty's Justices of the Peace, shall forfeit and lose all Wages due to him for his Service in such Employment, whereof he shall be so found incapable.

Persons engaging in the Fishery as a Salter, &c. and not capable of his Duty, to forfeit his Wages.

† Qu. & Vide *Brit. Stat. 4. Geo. 1. c. 11.* extended to all His Majesty's Dominions in *America, Sect. 5.* for binding Infants to Service by Transportation to *America*—and *Sect. 3.* for transporting Convicts, &c.

C A P. VIII.

An ACT in Amendment of *An Act for confirming Titles to Lands and Quieting Possessions.*

32. Geo. 2. c. 2.

* * * * * *HEREAS* by a Resolution or Act of the Governor and Council of this Province, made before the Calling a General Assembly, and afterwards confirmed by the General Assembly of this Province, it is among other Things resolved, "That the Register for the Time being or his Deputy, shall be allowed for the Entry of every Memorial as is by this Act directed to be registr'd, the Sum of One Shilling and no more, in Case the same do not exceed Two Hundred Words, and if more, then after the Rate of Six Pence an Hundred for all the Words contained in such Memorial, over and above the first Two Hundred Words, and the like Fees for the like Number of Words contained in every Certificate or Copy given out of the said Office, and no more; and for every Search in the said Office One Shilling and no more." And Whereas by an Act made and passed in the Thirty Second Year of his late Majesty's Reign, intituled An Act for confirming Titles to Lands and quieting Possessions, it is Enacted, "That the Register of Deeds and Conveyances in this Province, shall for the future in Lieu of any Memorial, register all Deeds and Conveyances in Words at full length, for which he shall demand and receive such Fees for registering, as in like Manner hath been heretofore allowed;" which Fees have been found an insufficient Recompence for the Attendance and Trouble necessarily attending the due Execution of that Office, as required by the aforesaid Acts; Be it therefore Enacted by the Governor, Council, and Assembly, That from and after the Publication hereof, the Register of Deeds and Conveyances in this Province, or his Deputy, shall and may demand and receive the Sum of Two Shillings for every Deed registr'd pursuant to the aforesaid Act, in Case the same do not exceed Two Hundred Words, and if more, then after the Rate of One Shilling an Hundred for all the Words contained in such Deed over and above the first Two Hundred Words; and the like Fees for the like Number of Words contained in any Copy, given out of the said Office; and for every Certificate One Shilling, and for every Search in the said Office One Shilling and no more, any Law, Usage, or Custom to the contrary notwithstanding.

Preamble.

Register's Fees established.

C A P. IX.

An A C T to impower the Province Treasurer to issue small Notes in Exchange for the large Notes, that have been issued heretofore in virtue of the several Loan Acts made and passed by the *General Assembly* of this Province.

Preamble.

*** HEREAS it has been represented, That the Persons who now possess Notes for large Sums borrowed in Pursuance of the several Loan Acts, made and passed by the *General Assembly* of this Province, labour under great Inconveniences on Account of the Largeness of the Sums expressed in those Notes: For Remedy whereof; Be it Enacted by the Governor, Council, and Assembly, That the Treasurer of the Province be, and he is hereby impowered and directed, on Application made to him for that Purpose, to take up and receive all such large Notes for Money borrowed as aforesaid, as shall exceed the Sum of Ten Pounds, and in Lieu thereof to give Receipts in Manner as is prescribed by an Act made and passed in the Fourth Year of his Majesty's Reign, intituled *An Act to impower the Province Treasurer to borrow a Sum not exceeding a Sum of Two Thousand Nine Hundred Pounds, for paying off Bounties, Premiums and other Debts payable by the Laws of this Province.*

Treasurer, upon Application, to take up any Note, above £10. and give Receipts for the same, in Manner directed in Prov. Act, 4. Geo. 3. c. 3. 1. Sess.

Such Receipts to bear Interest at the Rate of 6. perCent.

II *And be it further Enacted*, That all Receipts so issued by the Treasurer of the Province, shall, according to the Tenor thereof, bear an Interest at the Rate of Six Pounds *per Centum per Annum*, and so in Proportion for a greater or lesser Sum, *Provided*, that the Person or Persons applying for said Interest shall bring in at one and at the same Time, a Sum not less than Twelve Pounds Ten Shillings, and the Treasurer is hereby directed to give his Receipt or Receipts for any Sum or Sums, *Provided* the same be not less than Five Shillings, at the Option of the Person or Persons possessed of the large Notes herein mentioned, and to date those Receipts so given, on the Day following the Day to which the Interest due on such Notes was paid.

Large Notes to be cancelled in Presence of Persons to be appointed by the General Assembly.

III. *And be it Enacted*, That all large Notes brought into the Treasury as aforesaid, and for which Receipts shall be given in Pursuance of this Act, shall be cancelled in presence of such Persons as shall be appointed by the *General Assembly* for that Purpose.

Receipts to be entered with the Clerk of the Audits.

IV. *Provided always and be it Enacted*, That all Receipts to be issued by the Treasurer in Pursuance of this Act, shall be entered with

with the Clerk of the Audits, before they are issued from the Treasury.

C A P X.

An A C T to establish the Number of Representatives to be elected in the several Counties and Townships which are now established in this Province.

*** E it Enacted by the Governor, Council, and Assembly, That
 B the several Counties and Townships herein after named
 *** shall be intitled to elect, in Manner and Form as has
 heretofore been accustomed in the County and Town of
Halifax, the Number of Persons to sit as Representatives in *General Assembly* as follows, for the County of *Halifax* Four ; for the County of *Annapolis* Two ; for the County of *Lunenburg* Two ; for the County of *King's County* Two ; for the County of *Cumberland* Two ; for the County of *Queen's County* Two ; for the County of *Sunbury* Two ; for the Township of *Halifax* Two ; for the Township of *Truro* One ; for the Township of *Onslow* One ; for the Township of *Annapolis* One ; for the Township of *Granville* One ; for the Township of *Lunenburg* One ; for the Township of *Horton* One ; for the Township of *Cornwallis* One ; for the Township of *Falmouth* One ; for the Township of *Newport* One ; for the Township of *Cumberland* One ; for the Township of *Liverpool* One ; for the Township of *Sackville* One.

Number of Representatives established for the several Towns and Counties.

II. And be it also Enacted, That when the Townships of *Barrington*, *Yarmouth*, *Chester*, *Dublin*, *Amherst*, *St. John's* *Windsor*, *Wilmot* on the River *Annapolis*, *Louisbourg* and *Wilmot* Town at *Canso*, shall consist of Fifty Families resident, and an authentick Certificate thereof shall be laid before the Governor, Lieutenant Governor, or Commander in Chief of the Province, each and every of the said Townships shall be intitled to elect, in Manner as aforesaid, One Person as a Representative in *General Assembly*.

Townships of *Barrington*, &c. when they consist of 50 Families resident,

to send one Representative.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth* Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the Third Day of *June*, 1766, in the Sixth Year of His said Majesty's Reign ; being the Second Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An A C T for the making perpetual, an Act made and passed in the Fourth Year of His Majesty's Reign, intituled *An Act for preventing Nuisances, by Hedges, Wears, and other Incumbrances, obstructing the Passage of Fish in the Rivers of this Province.*

Act 3. Geo. 3. c. 2.
made perpetual.

*** E it Enacted by the Commander in Chief, Council, and
* B * Assembly, That an Act, intituled *An Act for preventing*
* * * *Nuisances, by Hedges, Wears, and other Incumbrances, ob-*
* * * *structing the Passage of Fish in the Rivers of this Province,*
shall be, and the same is hereby made perpetual, any Proviso or
Limitation in the said Act notwithstanding.

C A P. II.

An Act in Amendment of an Act made and passed in the Thirty Third Year of His late Majesty's Reign, intituled *An Act for establishing a Public Market at the Market House in Halifax, and for regulating the same.*

34. Geo. 2. c. 6.

HEREAS in the Act, intituled "An Act for establishing a Public Market at the Market House in Halifax, and for regulating the same," no Provision is made in Case of Persons arriving in Halifax from the Country (after the Hours of Market are over) with small Quantities of Provision of a perishable Nature; Be it therefore Enacted by the Commander in Chief, Council, and Assembly, That from and after the Publication hereof, it shall and may be lawful for all and every Person, bringing to Halifax from the Country small Quantities of dead Butcher's Meat, Poultry and Pigs alive or dead, Roots, Greens and other Vegetables, immediately to sell and dispose thereof by Hand, except in Market Hours, to any Person or Persons not being of the Profession of a Butcher or Huckster, any Law, Usage or Custom to the contrary notwithstanding.

Preamb le.

Persons bringing to Halifax from the Country dead Meat, &c. may immediately sell the same, except in Market Hours.

C A P. III.

An ACT for the more effectual Recovery of His Majesty's Dues in the Islands of Cape Breton, St. John's, and Islands adjacent.

HEREAS His Majesty by his Royal Proclamation, given at St. James's the Seventh Day of October, One Thousand Seven Hundred and Sixty Three, in the Third Year of His Reign, has thought fit to annex the Islands of St. John's and Cape Breton or Isle Royal, with the lesser Islands adjacent thereto, to the Government of Nova Scotia: And Whereas some Doubts have arisen, whether the Laws of this Province, antecedent to the said Proclamation, are in force there; and as sundry Persons have since refused to pay His Majesty's Dues: In Order therefore to remedy the same; It is hereby declared and Enacted by the Commander in Chief, the Council, and Assembly, That by virtue of His Majesty's Royal Proclamation, the said Islands of St. John's, Cape Breton or Isle Royal, with the lesser Islands adjacent, were, and shall accordingly be adjudged to have been and be under the Government, Authority, and Jurisdiction of this His Majesty's Province, and that the

Preamble.

Islands of Cape Breton, &c. adjudged to be under the Government, &c. of this Province, and the Inhabitants subject to the Laws of the same.

Inhabitants thereof were and are subject to all the Laws of the same.

Collectors of Impost and Excise empowered to sue for and recover any Duties, &c. in any Court of Record.

II. *And be it further Enacted*, That the Collectors of Impost and Excise Duties, or any other Officer appointed to receive His Majesty's Dues there, shall be and are empowered to prosecute, sue for, and recover, in any of His Majesty's Courts of Record within this Province, any Duties, Customs, Excise, Rents, or Arrears of Duties, Customs, Excise or Rents, or any Debts or other Demands whatsoever, due to the Crown from Persons residing in said Territories; and such Courts in which such Causes are commenced, are hereby authorized to hear and determine the same, and to award Execution accordingly.

C A P. IV.

An Act for extending an Act made and passed in the Thirty Second Year of His late Majesty's Reign, intituled *An Act for preventing Persons leaving the Province without a Pass.*

Geo. 2. c. 23.

Preamble.

HEREAS some Doubts have arisen, whether an Act made and passed in the Thirty Second Year of his late Majesty's Reign, intituled *An Act for preventing Persons leaving the Province without a Pass*, doth extend throughout this Province; Be it Enacted and Resolved by the Commander in Chief, the Council, and Assembly, That the said Act and every Clause and Article therein contained, be construed to extend and shall extend to the whole Province, and that all Passes shall be given out either by the Secretary of the Province, or by such Persons as he has or shall depute for that Purpose.

Act 32. Geo. 2. c. 23.

extended throughout the Province.

C A P. V.

An A C T in further Addition to and Amendment of an Act made and passed in the Thirty Third Year of His late Majesty's Reign, intituled *An Act relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures.*

32. Geo. 2. c. 21.

Preamble.

HEREAS in the Act relating to the Assize of Bread, and for ascertaining the Standard of Weights and Measures, the Duty of the Clerks of the Market is not sufficiently provided for or set forth, nor any Penalty affixed to their Neglect of Duty: And Whereas also great Frauds are daily practised by Bakers and Sellers of Bread:

Bread: For Remedy whereof; Be it Enacted by the Commander in Chief, Council, and Assembly, That the Clerks of the Market in the several Towns or Townships in this Province, where Bread is made and sold, shall visit the Bake Houses, and the Houses of all and every Person or Persons selling Bread, at least One Day in every Week during their Continuance in Office as such, and if they neglect to perform their Duty therein, they shall upon due Conviction at the *General Sessions of the Peace*, forfeit the Sum of Forty Shillings each, to be recovered on Complaint before the said *Sessions*; which Fine shall be One Half to the Poor of the Town or Township to which such Clerk shall belong, and the other Half to him or them who shall complain and prosecute for the same.

Clerks of the Market to visit the Bake Houses, &c. once every Week,

on Penalty of 40s.

II. *And be it further Enacted,* That every Baker or Seller of Bread, shall make his Bread, commonly called white Bread, of the Flour of Wheat only, and if he shall make use of, or mix with the said Bread, the Flour or Meal of any other kind of Grain, or any other Ingredient whatever, or shall make use of, or mix, in the said Bread, any decayed or damaged Flour, and be duly convicted thereof, he shall pay a Fine not exceeding Ten Pounds, and be further Corporally punished as in Cases of Fraud, at the Discretion of the Court before which he shall be convicted.

Bakers to make white Bread of the Flour of Wheat only,

and not of damaged Flour,
on Penalty of £.10.

III *Provided always,* That nothing in this Act shall extend to hinder any Baker or other Person from making brown Bread, mixed with Rye or Indian Meal that is not damaged, and sell the same as such.

Brown Bread may be mixed with Rye or Indian Meal.

IV. *And it is hereby also Enacted,* That a Report shall be made once in every Month by the said Clerks of the Market, of their whole Proceedings in virtue of this or the afore recited Act, to some one of His Majesty's Justices of the Peace within their District, who shall certify at the *General Sessions of the Peace* for the County, whether such Reports have been regularly made; and the said *Sessions* shall proceed to fine all such Clerks who have neglected to make Report as aforesaid, in any Sum not exceeding Forty Shillings each, for the Use of the Poor of the Town or Township to which the said Clerks shall belong.

Clerks of the Market to report their Proceedings once every Month to a Justice of the Peace.

on Penalty of 40s.

V. *And be it further Enacted,* That the *General Sessions of the Peace*, shall Quarterly make an Assize of Bread, and cause the same to be affixed up at the Market Place Weekly; and also give a Copy of the same to the several Clerks of the Market.

General Sessions of the Peace to make an Assize of Bread every Quarter.

C A P. VI.

An ACT against Foretallers and Reqrators.

* * * * * *E it Enacted by the Commander in Chief, Council, and Assembly,*
 * * * * * *B* * * * * * *That from and after the Publication hereof, whatsoever Person or Persons shall buy or cause to be bought, any Victuals of any Kind whatsoever, coming by Land or Water towards any Market or Fair already established, or that may hereafter be established in this Province, to be sold in the same, (except at the Distance of Ten Miles at least from the Place where such Market or Fair is to be held or kept) or shall make any Bargain, Contract, or Promise, for the having or buying the same or any Part thereof, or shall make any Motion by Word, Letter, Message, or otherwise, to any Person or Persons, for the enhancing the Price or dearer selling any Kind of Victuals or Provision for the Use of Man, coming by Land or Water towards any Market or Fair as aforesaid, shall be deemed and adjudged a Foretaller.*

Who shall be deemed a Foretaller.

II. *And be it further Enacted,* That whatsoever Person or Persons shall by any Means, reqrate, obtain or get into his or their Hands or Possession, in any Fair or Market, any Corn, Hay, Fish, Sheep, Lambs, Calves, Beef, Swine, Piggs, Geese, Capons, Hens, Chickens, Pidgeons, Hares, or other dead Victuals whatsoever, that shall be brought to any Fair or Market whatsoever within this Province, to be sold, and do sell the same again in any Fair or Market holden or kept in the same Place, within One Month after purchasing or receiving the same, shall be accepted, reputed, and taken for a Reqrator or Reqrators.

Who shall be deemed a Reqrator.

III. *And be it also further Enacted,* That any Person or Persons who shall be guilty of forestalling or reqrating, contrary to the Intent and Meaning of this Act, and shall be duly convicted in any of His Majesty's Courts of *General Sessions of the Peace* for the County where the Offence is committed, shall be fined at the Discretion of said Court, in any Sum not exceeding Ten Pounds, and for Non Payment of his or their Fine, to suffer Imprisonment at the Discretion of the Court, not exceeding Two Months for each and every Offence; and that One Moiety of the said Fine and Forfeiture, be for the Use of the Poor of the Town where the Offence has been committed, and the other Moiety to him or them who shall sue for the same.

Persons guilty of Forestalling or Reqrating to be fined not exceeding £.10.

or to suffer Two Months Imprisonment.

C A P. VII.

An A C T concerning Schools and Schoolmasters.

Be it Enacted by the Commander in Chief, Council, and Assembly, That no Person hereafter shall set up or keep a Grammar School within this Province, till he shall have first been examined by the Minister of such Town wherein he proposes to keep such Grammar School, as to the Qualifications for the Instruction of Children in such Schools; and where no Minister shall be settled, such Examination shall be made by two Justices of the Peace for the County, together with a Certificate from at least Six of the Inhabitants of such Town, of the Morals and good Conduct of such Schoolmaster, which shall be transmitted to the Governor, Lieutenant Governor, or Commander in Chief for the Time being, for obtaining a Licence as by His Majesty's Royal Instruction is directed; and that no Person shall set up or keep a School for the Instruction of Youth in Reading, Writing, or Arithmetic, within the Township of *Halifax*, without such Examination, Certificate and Licence, or in any other Manner than is before directed; and every such Schoolmaster who shall set up or keep a School contrary to this Act shall, for every Offence, forfeit the Sum of Three Pounds, upon Conviction before Two Justices of the Peace of the County where such Person shall so offend, to be levied by Warrant of Distress, and applied for the Use of the School of the Town where such Offence shall be committed†.

Eng. Stat. 1. Jac. 1. c. 4. Sect. 9.
No Person to set up a School until he shall be examined by the Minister, &c. of the Town, as to his Qualifications for the Instruction of Children, to be certified to the Governor, &c. in order for his obtaining a Licence.

Any Person setting up a School without Licence, to forfeit £3. for every Offence.

II. *Provided,* That no Person shall presume to enter upon the said Office of Schoolmaster, until he shall have taken the Oaths appointed to be taken instead of the Oaths of Allegiance and Supremacy, and subscribed the Declaration openly in some one of His Majesty's Courts, or as shall be directed by the Governor, Lieutenant Governor, or Commander in Chief for the Time being. And if any Popish Recusant, Papist or Person professing the Popish Religion, shall be so presumptuous as to set up any School within this Province, and be detected therein, such Offender shall for every such Offence suffer Three Months Imprisonment without Bail or Mainprize, and shall pay a Fine to the King of Ten Pounds; and if any One shall refuse to take the said Oaths and subscribe the Declaration, he shall be deemed and taken to be a Popish Recusant for the Purposes so before mentioned.

Eng. Stat. 11 & 12. Will. 3. c. 4.
Schoolmasters to take the Oaths.

Eng. Stat. 13. Will. 3. c. 6. Brit. Stat. 1. Geo. 1. c. 13. Sect. 1.
Any Popish Recusant who shall set up a School, shall forfeit £10. and suffer three Months Imprisonment.

III. *And Whereas His Majesty has been pleased to order that Four Hundred Acres of Land in each Township, shall be granted to and for the Use and Support of Schools, Be it Enacted,* That the said Quantity of Lands shall be vested in Trustees for the said Purpose, and such

400 Acres of Land in each Township to be vested in Trustees for the use of Schools.

† 2. Stra. 1023. 1. Peere Williams 32. Cox's Case.

Trustees shall be and are hereby enabled to sue and defend for and on behalf of such Schools, and to improve all such Lands as shall be most for the Advantage and Benefit thereof.

At the GENERAL ASSEMBLY of the Province of *Nova Scotia*, begun and holden at *Halifax*, on the *Twenty Eighth* Day of *May*, *Anno Domini* 1765, in the Fifth Year of the Reign of Our Sovereign Lord GEORGE the Third, of *Great Britain, France, and Ireland*, KING, Defender of the Faith, &c. and there continued by several Prorogations until the *Twenty Third* Day of *October*, 1766, in the Sixth Year of His said Majesty's Reign; being the Third Session of the Fourth GENERAL ASSEMBLY convened in the said Province.

C A P. I.

An ACT to prevent the Cutting or Breaking down the Bank of any River, Seabank, or Dykes.

*** HEREAS there are large Tracts of Marsh Lands within this
 * W * Province dyked in, great Part of which are, at this Time, un-
 * * * der actual Improvement, from which great Advantages must
 * * * arise; and as the dyking and draining those Lands are attended
 with a very great Expence, which Expence and Advantages may be lost,
 to the Ruin of many industrious Persons, by wicked and evil minded Per-
 sons cutting or destroying said Dykes, or the Piles or Pickets which
 are drove into the said Marshes, their Banks or Dykes; For Remedy
 whereof, Be it Enacted by the Lieutenant Governor, Council, and As-
 ssembly, That if any Person or Persons, from and after the Publica-
 tion of this Act, shall unlawfully and maliciously break down, or cut
 down the Bank or Banks of any River, or any Seabank or Dykes,
 whereby any Lands shall be overflowed or damaged, every Person so
 offending,

Preamble.

Brit. Stat. 6. Geo. 2.
 c. 37. Sect. 5. &
 1. Geo. 2. c. 42.
 Sect. 3.
 Unlawfully break-
 ing down the Bank
 of any River, &c.

Felony without
 Clergy.

offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in Cases of Felony, without Benefit of Clergy.

II. *And be it further Enacted*, That if any Person or Persons shall, at any Time or Times hereafter, unlawfully cut off, draw up or remove and carry away, any Piles or other Materials which are, or at any Time hereafter shall be driven into the Ground, and used for the securing any Marsh Lands or Sea Walls, Banks, or Dykes, in order to prevent the Lands lying within the same from being overflowed and damaged, it shall and may be lawful to and for any Two or more of His Majesty's Justices of the Peace, residing near the Place where the said Offence or Offences shall be committed, and such Justices are hereby respectively authorized and required, upon Complaint or Information upon Oath of such Offence, to summon the Party or Parties so complained of, or to issue their Warrant or Warrants to apprehend and bring before them, the Person or Persons so accused, complained of, or suspected, and upon his, her, or their Appearance, or neglect to appear, to proceed to examine the Matter of Fact with which he, she, or they are charged, and upon due Proof thereof made, either by Confession of the Party or Parties so accused, or upon the Oath or Oaths of One or more credible Witness or Witnesses, to determine the same, and to convict the Offender or Offenders; and every Person offending herein, and being thereof convicted as aforesaid, shall forfeit and pay the Sum of Twenty Pounds; one Moiety thereof to the Informer, and the other Moiety to the Overseers of, and for the Use of, the Poor of the Township or Place wherein such Offence shall be committed; the same to be levied by Distress and Sale of the Offender's Goods and Chattels, together with the Charges of such Distress and Sale, rendering the Overplus (if any be) to the Owner or Owners thereof; and for Want of sufficient Distress, the said Justices are hereby required to commit the Person or Persons convicted as aforesaid, to the House of Correction or Common Gaol of the County, Town or Place, where the Offence shall be committed, there to remain and be kept at hard Labour for the Space of Six Months.

Any Person cutting off, drawing up, or removing and carrying away, any Piles or Materials used for securing any Marsh Lands, Sea Walls, &c. and convicted thereof, before two Justices of the Peace,

shall forfeit £20.

One Half to the Informer, the other Half to the Poor.

Or suffer Six Months Imprisonment at hard Labour.

C A P. II.

An A C T in Addition to and Amendment of an Act made and passed in the Second Year of His present Majesty's Reign, intituled *An Act for regulating the Exportation of Fish, and the Assize of Barrels, Staves, Hoops, Boards, and all other Kinds of Lumber; and for appointing Officers to survey the same.*

2. Geo. 3. c. 8.

Preamble. *HEREAS the Laws and Regulations made and provided, respecting the packing of Mackarel and all other Kinds of pickled Fish within this Province, do not appear to fully answer the Purposes for which they were intended; Be it Enacted by the Lieutenant Governor, Council, and Assembly, That from and after the First Day of January, which will be in the Year of our Lord One Thousand Seven Hundred and Sixty Seven, all and every Person or Persons, packing Mackarel or any other Kind of pickled Fish within this Province, for Sale or Exportation, shall brand each Cask and Barrel by him or them so packed, on the Head of such Cask or Barrel, with the initial Letter or Letters of his or their Christian Name, and his or their Surname at Length, before he or they shall ship or expose the same to Sale, and every Person or Persons, who shall presume to ship for Exportation or expose to Sale any Mackarel or other Kind of pickled Fish, before the same be branded as aforesaid, shall, on due Conviction thereof by the Oath of One credible Witness, before any one of His Majesty's Justices of the Peace, forfeit and pay the Sum of Ten Shillings for each and every Cask or Barrel so exported or exposed to Sale; one Moiety thereof to the Informer, and the other Moiety to the Overseers of, and for the Use of the Poor of the Township, Town or Place, wherein such Offence shall be committed; the same to be levied by Distress and Sale of the Offender's Goods and Chattels, together with the Charges of such Distress and Sale, rendering the Overplus (if any be) to the Owner or Owners thereof.*

Persons packing Pickled Fish for Sale or Exportation, to brand each Cask with the initial Letters of their Names &c.

on Penalty of 10s. for each Cask.

One Half to the Informer, the other Half to the Poor.

C A P. III.

An A C T for empowering the Justices of the Peace for the County of *Queen's County* to hold Courts of *Special Sessions of the Peace*, at *Yarmouth* and *Barrington* in said County, for the said Townships of *Yarmouth* and *Barrington*.

HEREAS for Want of Roads, and the Distance between the Township of *Liverpool* in the County of *Queen's County*, and the Townships of *Yarmouth* and *Barrington*, makes the Attendance of Persons resident in the said Townships of *Yarmouth* and *Barrington*, at the General Sessions of the Peace held for the said County of *Queen's County*, at *Liverpool*, very inconvenient; For Remedy whereof, Be it Enacted by the Lieutenant Governor, Council, and Assembly, That Courts of General Sessions of the Peace shall and may be held and kept within the Township of *Yarmouth* in *Queen's County*, on the First Tuesday of April, and within the Township of *Barrington* in the said County, on the First Tuesday of November, in every Year; and any Three or more of the Justices for the County of *Queen's County*, shall and may hold the said Courts; and such Courts shall have, hold, use, exercise, and enjoy, all and singular the Powers which are by Law already given and granted unto Courts of *General Sessions of the Peace*, so far as relates to all such Matters and Things as shall be cognizable by such Courts within the said Townships of *Yarmouth* and *Barrington*.

Preamble.

Courts of General Sessions of the Peace, may be held within the Townships of *Yarmouth* and *Barrington* every Year.

C A P. IV.

An A C T to empower the Governor, Lieutenant Governor, or Commander in Chief, to grant Warrants on the Treasury for the Sum of Three Thousand Six Hundred and Forty Eight Pounds, and Four Pence, with the Interest due thereon, the same to bear Interest, for the Payment of fundry Persons who have Demands on the Government.

HEREAS many Persons have considerable Demands on the Province, to which they may be found equally intitled with such as have already received Loan Warrants or Treasurer's Notes bearing Interest until such Sums shall be paid; and as by the present State of the Province Funds, those Demands cannot be immediately discharged; Therefore for the better securing the same, Be it Enacted by the

Preamble.

The Governor, &c. to grant Warrants, bearing Interest, to such Persons as have Demands on the Province, as allowed by the General Assembly.

Demands to be first audited and certified to be justly due, by Persons to be appointed by the Governor, &c.

The Interest to be paid annually.

Interest to be allowed on Bounty Certificates.

Lieutenant Governor, Council, and Assembly, That the Governor, Lieutenant Governor, or Commander in Chief of the Province for the Time being, be and he is hereby impowered to grant Warrants on the Treasury, bearing Interest at the Rate of Six *per Cent. per Annum*, to all such Persons as have Demands on the Province as set forth and allowed by the General Assembly this present Session; and to all such Persons as have Demands on the Province for Bounties and Premiums payable by the Laws of this Province. *Provided*, That the Accounts and Vouchers of all such Debts or Demands shall be first regularly audited and certified to be justly due, by such Persons as the Governor, Lieutenant Governor, or Commander in Chief for the Time being, shall authorize and appoint for that Purpose.

II. *And be it Enacted*, That the Treasurer of the Province is hereby authorized and directed to pay off the Interest on all such Warrants as the same becomes annually due, out of such Monies as may then be in his Hands, arising from the Duties of Impost and Excise.

III. *And be it also Enacted*, That the Treasurer shall state and allow Interest at the Rate aforesaid on all Bounty and Premium Certificates, in the Manner prescribed by the Laws of this Province.